

Republika ng Pilipinas
Komisyon ng Karapatang Pantao
(Commission on Human Rights)

HUMAN RIGHTS ADVISORY

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**“THE SPATE OF KILLINGS OF FILIPINO JOURNALISTS
AND THE GRAVAMEN OF IMPUNITY WITH THE LAW”**

The Supreme Right to Life

Article 6 Paragraph 1 of the Covenant on Civil and Political Rights provides:

“Every Human being has the right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”

The Right to life is the supreme right from which all other rights emanate, for without life, there are no rights to speak of.

States have the supreme duty to prevent arbitrary loss of life. The United Nations Human Rights Committee, the treaty monitoring body for the International Covenant on Civil and Political Rights has called attention to the supremacy of the right to life. In its General Comment No. 6, it underscores that State parties should take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces . . . the law must strictly control and limit the circumstances in which a person may be deprived of his life by such authorities.



Ang Karapatang Pantao ay para sa lahat. Panindigan natin ito.

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The Plight of Filipino Journalists

Regardless of frontiers, it is the right of every individual, of every human being to express their opinion and to receive information. Both the print and broadcast media have been very effective avenues for such interactions. The field of journalism has provided crafted propagation of truthful insights educating and inviting the attention of the curious including the less knowledgeable.

The Philippines, being a democratic and republican state, subscribes to the thesis that human dignity is best determined when there exists freedom in the exchanges of views. In quintessence, the ideal is to allow the free flow of ideas. Jurisprudence is replete with cases upholding freedom of speech and of expression as more than legal rhetorics enshrined in the constitution with such strong mandate.

The Spate of Killings

According to news reports, some twenty-three Filipino journalists had been slain for the past three years. Such figure raises to 66 the number of media personalities killed since the restoration of democracy in the Philippines. Killing of journalists is an affront to freedom of the press. The call on the government to address the pressing issues of media killings without delay which resounds more strongly with every journalist attacked and mauled, had taken to the streets journalists, human rights advocates and families of the victims.

This resounding call has already come from outside our borders. The Philippines has been branded as one of the most dangerous places for journalists, an epithet that is certain to be remembered in infamy, but much is left to be desired on the course of action that has been advanced. Journalists continue to be hounded by those who take no pleasure on having grievances reported and criticized albeit progressive and aimed at achieving transparency in the entirety of government's operational framework, including the lives of the influential who thrive on the Philippines' languishing resources.

Establishing the Beginnings of Impunity

Impunity exists in the Philippines because the killings of journalists are commonplace, they continue unabated and brazen where perpetrators are rarely found and punished. They trace to a pattern of acquiescence and complacency on the cases of killings, individually and collectively.

Amnesty International points that impunity 'may occur when the authorities fail to investigate human rights violations, and even when they do, [they] do not proceed quickly and diligently and [do not observe] relevant international standards . . . likewise, there is impunity of facts, not only when the government fails to bring the culprits of human rights violations before the courts, but also when it prosecutes only some individuals.'

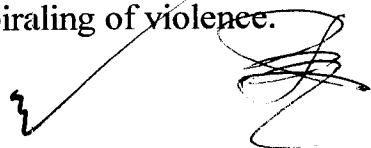
Impunity can also be understood as the absence or inadequacy of penalties and/or compensation for massive and grave violations of the human rights of individuals or groups of individuals.¹ However, in this case, Philippine law is replete with provisions on the protection of the right to life. The Revised Penal Code defines murder in Article 248 as the 'killing of a person with attendant circumstances of treachery, superior strength for a price or reward, by fire, poison, explosion or by any means involving great waste, evident premeditation or with cruelty'. It has likewise defined fair trial and has underscored the importance of due process. But the investigation of *de facto* protection of the right to life must also be concentrated upon.




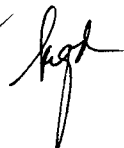
Effects of Impunity

Impunity presages the absence of the rule of law, essential in maintaining order and stability, a condition conducive for the protection of human rights.

Impunity destabilizes the socio – political system. Faith in law enforcement and the justice system is so eroded that the rule of law is replaced by the rule of men. Impunity breeds brazen acts of violation of human rights. It is an obstacle to the development and the advancement of a democratic system. A culture of impunity has led to continued arbitrary killings and has contributed to the uncontrollable spiraling of violence.





What are the signs that impunity has set in? The excuse of 'no available witness' must be examined. Is the 'non-availability' based on the non-existence of an actual witness or are people afraid to stand as witnesses? Or are authorities not diligent enough to find them? Victims' relatives who may have witnessed the killings or have some knowledge of it have no succor from the government tasked not only to protect the right to life but enable those whose lives have been deprived unlawfully to seek justice. The actions or omissions of the State is equally telling of their commitment to the obligation to uphold the right to life.

In this spate of killings speculations on the character of the victims have been rife. By this fact alone, the state must act to avert the practice not to condone it by its inaction. Human Rights are for all human beings, no judgments can be made about peoples' characters before government decides to get up and address the situation.

While quick to point out that all human beings have the right to life, certain persons, whose profession is to safeguard human rights must also be examined. This is not to say that there is a greater need to protect persons such as journalists, lawyers, advocates or so called human rights defenders over 'ordinary citizens', but there must be some protection for the professions that keep alive the sanctity of human rights.

The failure to follow up action on murders of journalists with thorough and effective investigations exposes them as 'easy' targets for anyone with a grudge² But more than that, the killing of a journalist greatly affects the right of people to information, their right to benefit from press freedom. Who was killed is as equally important as what was extinguished with the killing of journalists, the truth.

The Role of the Commission on Human Rights

Is the Commission merely duplicating what law enforcement is doing or not doing? Victims go to the Commission on Human Rights because they see it as an agency of last resort. What makes 'simple murders' a case of human rights violation and not merely a case for the Police to handle as a crime? The fact that victims go to the Commission is a symptom of impunity, usually feeling that cases are being neglected, whitewashed or ignored.

The role of the Commission in this particular case is to look at how Government has responded. This Commission must clarify the obligations emanating from being a State party to pertinent human rights treaties it has committed to. We must see a willingness on the part of the government to uphold the right to life and must examine its real inabilities to uphold the sanctity of human life.

In view of the foregoing, the CHRP must examine the response of the national government and assess its willingness and identify the obstacles in responding to its obligations on the right to life.

Role of Media

Even as the killings of journalists seem to be a regular kismet in the country and injustice resonates from the said executions while the Philippine government had been marred by irreverent and profane name-calling from the engaging lot, the elemental role of *responsible journalism* cannot be placed in disregard. This is so because the society is comprised by functioning stimuli found in the lives of people who keep up with the issues mostly for information. Such myriad of information whether they are factual or opinionated necessarily affect the reasoning of the audience or reader, hence its consequences must not be borne by a select group.

There inheres in journalism a call for stringent standard of professionalism. This standard cannot be underrated in that it is the very crux of the right under the mantle of security which the law affords. Nevertheless, media cannot just be the recipient of generous attention. Order is a dynamic and participatory undertaking that calls for commitment on all interested parties who demand for its sustained implementation.

Journalists and their respective organizations should be willing to accept shared responsibility with the state, its instrumentalities, including its military arm so as to create a mechanism conducive to a democratic and intelligent exchanges of information. These individuals and entities should endeavor to encourage strict enforcement of regulations that confer upon them rights and at the same time consider exploiting opportunities to propose or lobby for legislation that are particularly tailored for the concerns of their trade.

Role of the National Government

If a state fails to prevent impunity for perpetrators of killings, this raises the issue of state responsibility under international law. States have an obligation under international law to ensure that suspected perpetrators are held responsible for their actions. If a state does not prosecute individuals which it suspects of having been involved in an unlawful killing, it has failed in its obligations under human rights international law.

National Government must respond to the spate of killings, individually and collectively:

1. There must be full and proper investigation for individual cases. An account of what has happened must be presented to the families of the victims and the general public.
2. National Government must be able to respond at the level of the collective. It must craft a mechanism to determine the patterns in the killings with the objective of obtaining information on profiles of victims with indicators utilized by the perpetrators. A mapping on the location, milieu and occupation or involvements of the victims as well as the alleged perpetrators should be rigorously determined. From this, they can identify hotspots, and designate more patrols in the area or station a regular posting in the area.
3. A credible witness protection program that would encourage witnesses to come forward must be established. The factor of trust can only be regained with a credible witness protection program.

Role of the Judiciary

It cannot be overemphasized that a state's judicial system has a well-entrenched mark on the efficacious enforcement of laws that govern order in the society. Upon every court, lies the responsibility to pronounce the corresponding penalty for an infraction. It wields the authority to impose consequent obligations for the advantage of the wronged. It restores what can be retrieved and compensates for losses otherwise non-recoverable.

More than the denotation of retribution to a layman however, the courts are not just fora for brandishing the sword of worthwhile victims of ill-conceived retaliations for bona fide exercise of press freedom. Every pronouncement of courts particularly the Supreme Court, being the court of

last resort, becomes the law of the land. It indoctrinates and mandates what has to be followed as interpretation of statutes.

With its well-recognized and revered function, courts must continue to be steadfast in the wisdom of *stare decisis* where freedom of speech and of the press are concerned. This is so in that the law holds sacred a person's right to the said freedom of speech, of expression and of the press that only when the evil sought to be avoided is grave, imminent and positively present may the government interfere.

Role of the Legislative Department

The Republic of the Philippines adopts a civil law system so called because it sources its laws from statutes or legislations. Thus it is quite essential in order to provide a mantle of security to all entities that concern themselves with the preservation of press freedom to enact laws that will provide definitive standard on what the opposed shall have to undergo in every attempt to bar or curtail free exercise of opinion.

The legislature must commit itself in imposing measures to counsel as well as advocate human rights. It has to embrace the necessity for pragmatic approaches in the appreciation of journalism and similar discipline. It has to recognize that the discouraging effect of the felonious affront to journalists gravely disturb the equilibrium of the country particularly the channel through which information is disseminated.

It is high time that Philippine laws provide responsive regulations as to the practice of profession because sans a measure of protection for both individuals and entities licensed to avail of the exercise of press freedom, aggression from the antagonists remains a concern.

Campaign against Impunity

Finally, the Commission together with all branches of Government at all levels and various private sectors must launch a 'Campaign against Impunity'. This should not only focus on the existence or absence of penalties to impunity on state actors but must also consider compensation for the victims of impunity. The obligation to protect and promote all human rights includes the obligation by the State to punish wrongdoers in

accordance with due process and allow them to compensate or repair the harm caused to society resulting from the violation of the right to life.

The campaign targeting against impunity must take root at the level of local governance. The spate of killings targeting journalists can be the first cause of the campaign against impunity.

Vigilance in Monitoring

Absence of the public eye allows the state to escape condemnation. The Commission on Human Rights, families of victims, public interest groups including non-governmental organizations and media should come together to create a body for closely monitoring the killings of journalists.

Bringing the killings of journalists into the public eye is a call for the accountability of Philippine Government in the protection and promotion of the right to life.

Everyone has the responsibility to cooperate and challenge impunity. More than condemnation we must seek solutions and build bridges to eliminate the unlawful deprivation of lives. We urge all Filipinos to rise tasks.

Program of Action


The Commission on Human Rights endeavors to establish a network of coordinating entities and groups of individuals representing government agencies, non-governmental offices, including media personalities that will work together to formulate and propose feasible solutions to the aggressive situation of media killings.

The review of Philippine laws and the status of implementation are included in the agenda. Further, an evaluation of the adequacy of existing statutes and the extent of how said statutes have so far worked to the advantage of press freedom are integrated. It is expected that the clarification of priority actions would pave the way for reverberating message to all Filipinos as well as to all peoples of the world that it is the trust of the consolidated effort to assist Filipino journalists, and the media in general. It is designed to obtain justice for the slain journalists irrespective of the motive of those who carried it out in that along with the demise of each member of the media came the destruction of the source of valuable and

insightful information on everyday affairs of life. It likewise bears stressing that with the confident move to advance press freedom, more Filipinos would share in the rewards of an informed and educated nation expected to craft a mechanism for the government that is the ultimate bulwark of fashioned in painstaking effort to achieve the ideals of a democratic society.

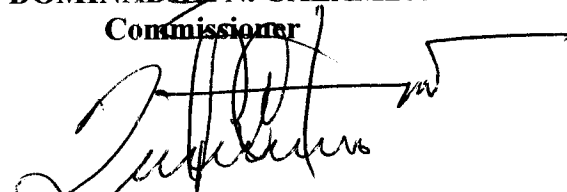
Done in Quezon City, Philippines on this 15th day of July 2005.


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