

Philippine 1987 Constitution: A document against authoritarianism

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The 1987 Constitution is the product of a sustained reflection on the lessons of martial law. It is a document of emancipation. Its principal objective is to make dictatorship a thing of the past. Its laborious language and lengthy provisions cannot be fully appreciated without referring to the social and historical context in which it was written.

No other section illustrates the 1987 Constitution's anti-authoritarian origins and intentions better than the provision creating the Commission on Human Rights. While this provision (Art. XIII, Secs. 17-19) refers to "all forms of human rights violations involving civil and political rights," its basic mandate was clear from the start: to investigate and redress the massive human rights violations committed by the police and the military during martial law, as well as to protect the people against a repetition of such abuses. The deliberations of the constitutional commission attest to this.

The Philippines is among the first countries to establish an independent national human rights institution. Similar agencies in other parts of the world were formed only after December 1993, following the adoption by the United Nations General Assembly of what are today known as "The Paris Principles." These principles prescribe standards pertaining to the status of national human rights institutions (NHRIs), their basic functions and responsibilities, composition, and methods of operation.

The most important of these principles has to do with the guarantee of adequate resources and financial autonomy to enable a national human rights institution to effectively carry out its mandate. Thus, by appropriating a measly P1,000 budget for the CHR's 2018 operations, the House of Representatives not only trampled on the Constitution, it also violated a UN resolution, to which the Philippines is a signatory.

The House's bizarre reasoning behind this shameless attack on the country's principal human rights agency betrays a gross misunderstanding of the wellsprings of the 1987 Constitution and of the international covenants to which our government is bound. The words of the main sponsor of the punitive P1,000 allocation for the CHR, Sagip Rep. Rodante Marcoleta, would be laughable if they were not so tragic.

Marcoleta slams the CHR for not coming to the defense of President Duterte after the latter's bloody war on drugs was criticized by the UN Special Rapporteur, Agnes Callamard. Aren't Mr. Duterte's human rights equally worth protecting? he asks. In the same vein, he wonders why the CHR seems to focus on human rights violations committed by the police. What about the human rights of the victims of drug addicts and pushers? What about the human rights of the victims of the Maute and Abu Sayyaf groups in Marawi?

Marcoleta goes on and on in what sounds like a rhetorical orgy of "whataboutism," a common form of defending the indefensible, a way of evading moral responsibility by creating false equivalences. What makes his intervention even more tragic is that 118 other representatives signified their agreement with it.

Because this kind of reasoning seems to afflict many otherwise educated people, I will attempt to explain why a commission on human rights cannot possibly attend to every conceivable instance of rights violation. This is assuming that rational argument still has a place in today's hate-filled public discourse.

Excessive demand has always been among the biggest challenges confronting national human rights institutions. While their staff and operating budgets tend to be minimal and more or less fixed, the demands made on them tend to increase with every shift in social space. With moral progress, societies become more conscious of various types of rights.

In more advanced societies, the rights of women, of members of the LGBT community, of the elderly, of children, of patients, of persons with disability, and of migrants assume paramount importance — alongside protection against abuses committed by law enforcement officials. The CHR would need a budget of several hundred billion pesos if it were to address all the demands made upon it. Aware perhaps that the agenda of human rights advocacy can quickly change, the 1987 Constitution has this interesting proviso: "Sec. 19. The Congress may provide for other cases of violations of human rights that should fall within the authority of the Commission, taking into account its recommendations." Congress chose to ignore this option and proceeded instead to strangle the CHR. In the context of a creeping dictatorship, the CHR's survival as an autonomous agency may well be the ultimate test of the strength of our institutions.

With the resurgence of authoritarianism, most charges of human rights violation will be filed against agents of the state itself. Not surprisingly, the CHR—which in the last three decades had divided its time monitoring human rights violations and promoting a human rights culture—now finds itself more and more engaged in the investigation of complaints against law enforcement officers.

To demand that the CHR devote equal attention and time to the grievances of the powerful — or of those who already have easy access to the legal system and other institutions that safeguard the rights of citizens — is to spit on the spirit in which it was created. It is to transform a social justice instrument into a tool of privilege. It is to stand Ramon Magsaysay's dictum that "those who have less in life must have more in law" on its head.

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P.S.

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