

SECOND OPINION

Philippines: 2,000 days of injustice - Leila de Lima continued detention

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To see Leila de Lima's case as independent [from its political context] ... is to turn a blind eye to what's been happening in the country ... To see our freedoms as unrelated to hers is to invite the absurdity and the violence to continue."

I wrote the above words in November 2019 to mark the 1,000 days that former senator Leila de Lima has been in jail on allegations of drug trafficking. Alas, 1,000 days later, Leila de Lima is still in jail, and I could easily have written the exact same lines.

Two thousand days—almost six years—is a very long time. If you think that the two and a half years of the pandemic took away so much from us, think of what has been taken away from the former senator, who has been deprived not just of her duties and privileges as senator, but of the opportunity to be with her family—including her ailing mother. Back in 2018, she was not even allowed to attend her son's graduation from law school, and even when the pandemic forced the senators to hold virtual sessions, she was deprived of her right to participate in them.

Think, too, of how her detention has prevented her from defending herself in the court of public opinion or campaigning for reelection, seriously hurting her public image and political career. With only a standee to stand in for her during the 2022 elections, she obtained just over half—7,278,602—of the 14,144,070 votes she won in 2016. The human rights lawyer who as justice secretary investigated drugs in Bilibid, and as senator was the first to call for an investigation of the extrajudicial killings under Duterte's drug war, has been portrayed as drug protector and maligned as an enemy of the state.

This is despite the fact that the cases against her have looked even weaker than before, with witness after witness recanting testimony that was crucial in implicating the former senator.

First, it was Kerwin Espinosa, who in late April filed a counter-affidavit disavowing his previous statements to the Senate in late 2016 and describing them as an "extrajudicial confession." The affidavit states: "Any statement he made against the senator are false, and was the result only of pressure, coercion, intimidation, and serious threats to his life and family members from the police, who instructed him to implicate the Senator into the illegal drug trade. For this, undersigned apologizes to Senator De Lima."

Then, days later, it was former Bureau of Corrections officer in charge Rafael Ragos—a key witness—who recanted his highly trumpeted claim of receiving P5 million from Bilibid inmates and handing it over to De Lima's aide Ronnie Dayan. "As far as I know and based on my professional relationship with Sec. De Lima," he averred in his new affidavit, "she is incapable of doing anything illegal, much less engage in the illegal drug trade or accept money from Bilibid inmates."

Dayan himself would recant just over a week later, retracting his testimony before Congress that he

received money from Kerwin Espinosa on behalf of his boss, claiming that he was forced by a congressman to implicate the former senator.

Finally, news emerged in early June that Marcelo Adorco—who the prosecution had described as Espinosa’s bodyguard—had also recanted his corroborative testimony implicating De Lima, claiming that his original affidavit was fabricated in a Leyte police station on orders of a police officer, amid threats to his life if he did not cooperate.

Even without these recantations, the Ombudsman in its recent decision dropping the bribery case against the senator concluded that the inconsistencies in the original testimonies—including from those same witnesses—“would prevent a reasonable mind from concluding that the respondents are probably guilty of the offenses charged against them.”

But what makes the recantations even more significant is that they are accompanied by very serious allegations that police and government officials coerced the witnesses. Is this not the heinous act—in De Lima’s words, “the illegal use of criminal convicts as state witnesses”—that should be investigated with more urgency, given that the credibility of the justice system itself is at stake?

Despite these red flags and glaring question marks, the cases against De Lima continue, and even her requests for bail have been denied.

“Without question,” Senators Risa Hontiveros and Koko Pimentel observe, “her continued detention is one of the grossest injustices ever committed to a sitting Senator.”

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P.S.

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