

Philippines: The continuing saga of Leila de Lima

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“It is terrifying to think that someone as prominent as De Lima, a former head of the country’s Commission on Human Rights and an elected senator, could find herself caught in a tangled mess such as this, the hapless victim of an elaborate scheme to game an imperfect legal system. One can only wonder how many ordinary people have been sent to prison in this manner and have been forgotten.”

To do justice is what the legal system believes to be its function. But that is a self-serving description. From an outsider’s perspective, the law’s function appears to be, strictly speaking, no more than to follow due process, no matter how long this may take. Courts of law rule on the validity of facts and the applicability of laws as these are presented to them. Very rarely, if at all, do they permit themselves to comment beyond what is submitted for resolution, especially if doing so risks incurring the enmity of politically influential individuals.

Nowhere do we see this more starkly than in the continuing legal saga of former justice secretary and former senator Leila de Lima. She has spent the last six years in detention on criminal charges filed by a regime she had been investigating for human rights violations. Critics of the regime have variously described the evidence on which these cases rested as “fabricated,” “contrived,” or “invented.” But nowhere are such words to be found in the court rulings that have pronounced De Lima innocent. She is acquitted, period. Nothing is said about the criminal culpability of those who wickedly masterminded and knowingly participated in the preparation of fake testimonies and the filing of bogus charges that landed her in jail. Since no charges have been filed against these persons, they are of no interest to the courts.

The objective consequences of the mandate of due process may sometimes be, in themselves, a form of injustice. A mother, a daughter, an elected public servant was targeted by no less than the country’s president. She was subjected to malicious scorn by some of her own colleagues in the legislature, falsely accused of a crime, and deprived of her liberty. It took four years before the cases against her moved. Two judges have ruled that the evidence against her is insufficient to warrant a conviction. How are we supposed to take all this?

Last Friday, May 12, Muntinlupa Regional Trial Court (RTC) Branch 204 Judge Abraham Joseph B. Alcantara acquitted De Lima of the crime of conspiring in illegal drug trading inside the New Bilibid Prison (NBP). Yet he could not order her release; instead, the just acquitted De Lima was escorted back to her detention cell inside Camp Crame.

Why? Because there is another pending case against her for more or less the same charge of abetting and profiting from drug trading inside the NBP. That case, Criminal Case No. 17-167, is the last of the three cases that were filed on Feb. 17, 2017. It is lodged in another branch (Branch 256)

of the Muntinlupa RTC. The hearings are set to begin in June.

De Lima's lawyers in this remaining case have filed a petition for her temporary release on the ground that the evidence against her is weak, a claim that has now been validated by the May 12 decision. But, taking their cue from Department of Justice (DOJ) Secretary Jesus Crispin Remulla, government prosecutors have responded to the De Lima petition for bail by offering to present evidence in support of her continued detention. (Remulla has said he would not oppose a petition for bail if applied for on humanitarian grounds but would oppose it if sought on the merits of the case.) The judge has yet to rule on the petition for bail. Earlier, in February 2021, a Muntinlupa RTC judge dismissed the charges against the embattled former senator in the first of the three cases filed by the DOJ, then headed by Vitaliano Aguirre II. Four years had passed since the then newly elected senator was arrested and ordered detained at the Philippine National Police Custodial Center.

The cases against her were virtually frozen in 2018, 2019, and 2020—while her chief nemesis, Rodrigo Duterte was president. Six judges either recused themselves or retired—a sign that the courts were not too keen to hear cases that were clearly entwined with political interests.

Things began to move again only toward the end of Duterte's presidency. It was as though a dark heavy cloud that had dulled consciences suddenly lifted. One after the other, key witnesses, who said they had been coerced into giving false testimonies against De Lima in exchange for the withdrawal of charges against them, recanted. The first to do so was self-confessed drug dealer Kerwin Espinosa, followed by former Bureau of Corrections officer in charge Rafael Ragos, and then by former De Lima aide Ronnie Dayan.

In the face of these recantations, the cases against De Lima stood entirely on the supposed declarations of high-profile drug inmates who were totally under the control of the DOJ. In his ruling last Friday, Judge Abraham Joseph Alcantara stated that Ragos' testimony was particularly crucial. His retraction substantially weakened the government's case against the former senator. As a general rule, the judge noted, recantations are not given much weight. "The rare exception is when there is no evidence sustaining the judgment of conviction other than the testimony of a witness or witnesses who are shown to have made contradictory statements ... "

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Randy David - @inquirerdotnet

P.S.

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