

Human Rights vs. Extrajudicial Killings

By: Atty. Rafael M. Iriarte, Ph. D.

Extrajudicial killing or any killing is immoral and is found in the Ten Commandments:

1. Thou shall not kill. (5th Commandment)

The constitution of the Philippines also provides for the right of the person not to be killed extra – judicially.

2. No person shall be deprived of life, liberty, or property without due process of law.¹

The present Justice system of our country also abolished or by law made death sentence no longer applicable.² Extrajudicial killing is the killing by government enforcement officers or by the state of a person without hearing, and this is a violation of human rights. If the killing is done by a vigilante, or a private person, who kills a drug offender violating R.A. 9165, then this is plain murder or homicide case and the vigilante is liable under the Revised Penal Code.

In the October 3, 2016 article in the Philippine Daily Inquirer, Associate Justice Marvic Leonen was quoted: “kung hindi tayo kikilos, sino ang kikilos? kung hindi ngayon, kaliaan pa? Justice Leonen cited the Philippine Constitution: *Art. III Sec 1. No person shall be deprived of life, liberty, or property, without due process of law.*

Relevant of laws with respect to human rights are: Anti Photo and Video Voyeurism Act of 2009, R.A. 9995 where photo or video images should not be shown in public display without the consent of the person in the image. R.A. 10173 is another law which protects the individual personal information and communication systems in the government and the private sector.

It is a human right that confidential information of a person should not be released by the private or government agency and that sensitive information shall be secured, except upon order of the court. The Bank Secrecy Act Law also ensures that the bank deposits of persons are not released without a valid court order. This is a human right.

R.A. 8424, An Act Amending the NIRC, Sec 270 also makes it unlawful to divulge secrets of a taxpayer, it is his human right. Another law, the R.A. 6713 or the Code of Conduct and Ethical Standards for Public Official and Employees, prohibits disclosure and/or misuse of confidential information. Again, this is the human right of

¹ Article III, Sec. 1, 1987 Constitution

² People v. Abarca, Sept, 14, 1987

the government employee with regard of this confidential information; that it could not divulged without his consent, or if there is no court order.

War on Drugs

Jhon Nery, editor in chief of Inquirer.net., said that since Pres. Rodrigo R. Duterte assumed office on June 30, 2016 up to Sept 19, 2016 a total of 1,027 deaths were recorded. 273 deaths remained unidentified, and 650, identified, and the rest were identified by alias. According to Jose W. Diokno, on August 31, 1981, "Human Rights are more than legal concepts; they are the essence of man."

Without human rights, I say, the humanness of the human being is lost and he is no longer human.

Human Acts, Animal Acts, Human Rights

"A human act is an act which proceeds from the deliberate free will of man," Rt. Rev. Paul J. Glenn, Ph. D., Sth. D. said. "In a wide sense, human acts means, any sort of activity, internal or external, bodily or spiritual, performed by the human being," he added. I, therefore, say, inhuman acts are animal acts.

"Man's animal acts of sensation (i.e use of senses) appetite (i.e., bodily tendencies), as well as acts that man performs indeliberately or without advertence and the exercise of free choice , are called acts of man", Glenn finally said. It can be found also in the writings of Francisco Balagtas in *Florante at Laura* and the writings of Jose Rizal like *Noli Mi Tangere*. These two writings were done during the Spanish times in 1839.

Republc of the Philippine Constitution

Article II Sec II provides: "The state values the dignity of every human person and guarantees full respect for human rights ."

United States Constitution

The preamble of the U.S. Constitution listed the 6th issue or reason why it was written. It says: "to secure the blessings of liberty (freedom) for ourselves and our posterity (future generations of Americans) – to protect the personal rights of all United States citizen's for all times"

Our Philippine Constitution provides the same inalienable rights and is also found in the preamble: "in order to build a just and humane society, under the rule of law and a regime of truth, justice, freedom, love equality and peace.

International Law

Senator Miriam Defensor – Santiago, who was appointed to the International Criminal Court, wrote in the IBP Journal VOL 33 No.1, She said: “International humanitarian law developed from the middle of the nineteenth century, with the following milestone 1899 and 1907, Hague Convention codifying the laws of man.” “The Geneva Convention under common Article 3 developed by protocol 2, the following acts are prohibited: violence of life and person, particularly murder, cruel treatment, and torture outrages upon human dignity, in particular humiliating and degrading treatment, passing of sentences in the absence of due process.”

Conclusion

I'll just quote the dictum of Glenn on International Law: “International law is, therefore, defined as the sum total of the rights and duties, natural and positive, by which nations are bound in their relations with one another.”

During my study life at U.P. Diliman College of Law, I can still remember from my professor in jurisprudence, when we were discussing about origins of law, whether positive or natural, he pointed out Hans Kelsen, that rectitude more than concupiscence is favorable because of the use cerebral than visceral, or the proneness to evil. When we are doing the cerebral part it is more good and useful as we are in the area of beneficence, certitude, cleanliness, daintiness, duty, fortitude, knowledge, morality, prudence and temperance, so we are on safe side.³

³ Bertham, Moore, Mill