

What is the Essence of Human Rights?

By: Faith R. Sevilla¹

"These rights make man a Human."

Let me start this by telling a story.

Every single morning, a loving mother of a boy with ADHD (Attention Deficit Hyperactivity Disorder) drives him to school and picks up afterwards. And during weekends, drives him to his doctor for a therapy and church to pray. This has been a routine for 14 years now. Then one day she received a call from the principal's office, told her that her son pushed his teacher and caused a wound in the forehead. By the way, this is not new to the mother, because there were similar instances in the past that resulted for her to transfer the boy from one school to another.

Being a mom of a special child is not that easy, especially there are still people who can't understand that not everyone is normal. Instead people tend to laugh and criticize them. For what? because they look different from us? Or because of the way they behave? This is the sad truth in our society; we easily judge others based on what we see. Not knowing that such person may be under medical conditions or any uncontrollable circumstances. Well, back to the story, the boy explained to his mom what really happened that day and said sorry. His classmates teased and bullied him, so when he pushed hard the bullies, his teacher who was standing behind the door was accidentally pushed as well causing to bump her forehead on the floor. There she realized the fact, that even how hard she tried to protect him, there will be times that her son will suffer and experience the cruelty in the world.

Every night the mother cries for guidance from above. What will happen to her son, if she'll be gone? To have a special child means, extra care, love, time, expensive tuition fees for special schools, medical treatments and other needs. Nevertheless, all she wanted is to see her son to have a great life regardless of his disabilities and hoping for a government that will protect his son's future.

This summer we are privilege to learn about Human Rights Law. Will this law be the answer to the prayers of the mother? Will this assures her of security? Will this gives us a better understanding about being humane? Is this law, enough for everyone to feel free and safe? Are there any ways that our government can provide us life of our dreams?

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1. What are Human Rights?

According to Jorge Coquia, these rights make a man a human. For this are the supreme, inherent and inalienable rights to life, dignity and self-development. Meaning, these rights are the core of our existence here on earth, that every person is entitled to be treated fairly. No one shall discriminate an individual just because he's poor, average or rich. All persons are equal in dignity and rights without any distinctions to race, color, sex, religion, origin, and social status. In short, it's our right to live in this world peacefully and happily.

On the other hand, according to the Stanford Encyclopedia of Philosophy, Human Rights refer to norms that aim to protect people from political, legal, and social abuses.

While the United Nations (UN) defines human rights as universal and inalienable, interdependent and indivisible, and equal and non-discriminatory. Universal and inalienable: Human rights belong to all and cannot be taken away unless specific situations call for it. However, the deprivation of a person's right is subject to due process. Interdependent and indivisible: Whatever happens to even one right – fulfillment or violation – can directly affect the others. Equal and non-discriminatory: Human rights protect all people regardless of race, nationality, gender, religion, and political leaning, among others. They should be respected without prejudice. Human rights can also be classified under individual, collective, civil, political, economic and social, and cultural.

The law provides that there are several sectors of society which are very vulnerable to Human Rights Violations. They are the women, children, the youth, indigenous peoples, the Muslim population, the elderly, persons with physical and mental disabilities, the prisoners and detainees, internally displaced persons, migrant workers, urban poor, informal, private and public workers, rural workers peasants and fish folks, house helpers, refugees and stateless persons. As part of its role as a national institution to provide advice and assistance to the government on the implementation of international standards, the Commission on Human Rights assisted the Philippine Government in the development of a National Action Plan. This plan is referred to as the Philippine Human Rights Plan. Subsequently, 15 sectoral working groups composed of Governmental Organizations, Non-Governmental Organizations and People's Organizations were organized at the national and regional levels to look into the actual situations and to adopt measures to minimize or reduce the violations.

For instance, children are one of the sectors that are considered vulnerable. Due to age and mental immaturity, the child needs special protection and care for his full development as a person before, as well as after birth. The comprehensive rights of a child are enumerated in the Convention on the Rights of a Child hereinafter referred to

as convention adopted in 1989. The Philippine Constitution guarantees protection of a child, including the unborn. In all matters concerning children, the courts of law or administrative authorities shall bear in mind that the best interest of the child shall be a primary consideration. The right of every child to a standard of living adequate for his physical, mental, spiritual, moral and social development and to be protected from any abuse.

2. What laws or legal documents ensure the human rights of Filipino citizens?

The rights of Filipinos can be found in Article III of the 1987 Philippine Constitution. Also called the Bill of Rights, it includes 22 sections which declare a Filipino citizen's rights and privileges that the Constitution has to protect, no matter what.

Aside from various local laws, human rights in the Philippines are also guided by the UN's International Bill of Human Rights – a consolidation of 3 legal documents including the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social, and Cultural Rights (ICESCR).

As one of the signatories of these legal documents, the Philippines is obliged to recognize and apply appropriate laws to ensure each right's fulfillment.

This is not always the case, however, as the Philippine Constitution lacks explicit laws to further cement specific human rights in the local context. For example, the Right to Adequate Food may be included in the UNDR but it is not explicitly indicated in the Philippine Constitution. Thus the government cannot be held responsible if this is not attained.

3. Who oversees the fulfillment and protection of human rights in the Philippines?

Human rights are both rights and obligations, according to the UN. The state – or the government – is obliged to “respect, protect, and fulfill” these rights. Respect begets commitment from state that no law should be made to interfere or curtail the fulfillment of the stated human rights. Protecting means that human rights violations should be prevented and if they exist, immediate action should be made.

In the Philippines, the Commission on Human Rights (CHR) primarily handles the investigations of human rights violations. However, it has no power to resolve issues as stated in the Supreme Court decision in 1991.

Established in 1986 during the administration of President Corazon Aquino, CHR is an independent body which ensures the protection of human rights guaranteed by the Bill of Rights.

Aside from investigations, it also provides assistance and legal measures for the protection of human rights guided by Section 18 Article XIII of the Philippine Constitution.

4. Do criminals or those who break the law still enjoy human rights?

Criminals or those in conflict with the law are still protected by rights as indicated in many legal documents such as the Philippines' Criminal Code and UN's Standard Minimum Rules for the Treatment of Prisoners. Specific human rights, however, may be removed, provided they go through due process beforehand. In 2002, the CHR issued an advisory after the debate sparked by Davao City Mayor Rodrigo Duterte's statement during a crime summit in Manila. He said extra-judicial or summary killings remain "the most effective way to crush kidnapping and illicit drugs."

However, according to the CHR, summary or extra-judicial executions of criminals or suspects are prohibited under the Philippine Constitution as these violate several sections such as Article III Section 1, which states that "no person shall be deprived of life, liberty or property without due process of law nor shall any person be denied the equal protection of the laws." It added that summary executions as a violation of human rights are more explicit in Article II of Section 11, which provides that "the State values the dignity of every human person and guarantees full respect for human rights."

Meanwhile, Section 19 of the Bill of Rights clearly states that any punishment against a prisoner or detainee shall be dealt with by law and through due process. It also says that no "cruel, degrading or inhuman punishment" may be inflicted – even death.

6. How does the Philippines fare when it comes to human rights violations?

In a Rappler piece, Human Rights Watch (HRW)'s Asian Division researcher Carlos H. Conde wrote that President Benigno Aquino III had more "rhetoric than concrete action" despite his "explicit human rights commitments" in 2010. Human rights violations – extrajudicial killings, torture, enforced disappearances, and human trafficking, among others – may have decreased in the past years but cases still exist and remain unsolved, according to Human Rights Watch. In its 2015 World Report, the international group lauded the efforts to resolve these violations. These include the arrest of retired army general Jovito Palparan in relation to the disappearance and torture of two University of the Philippines students in 2006, and the peace agreement between the government and the Moro Islamic Liberation Front, among others. The recent issue over the killings and displacement of Lumads, however, has put the government's way of handling human rights issues under the spotlight.

Meanwhile, a popular issue is about this. That nearly 75,000 people filed for recognition as victims of human rights violations during the administration of President Ferdinand Marcos in 2014. Martial Law is regarded as the "dark years from 1972-1986

due to a huge record of abduction and torture, among others, under the dictatorship of Ferdinand Marcos.’

With all the violations that happened in our history and continuously up to the present, did the victims attain justice? Are the implementations of these laws effective?

Let me conclude by saying that it is good thing to know that rights of individuals are safeguarded especially of the children under the law. In my observations, Human Rights Law is too broad. There are numerous laws in the country and agreements with the International bodies. Furthermore, in reality the main dilemma in any legislation is absolutely the implementation. As a matter of fact, I believe that justice in the majority of cases pertaining human rights are not yet obtained. That's why due to its broadness, for me to be able to discuss thoroughly I decided to particularize a situation to support my thoughts. That's the basis why I started my essay with a short story. The story is real and it happened that the boy is my cousin. I chose to incorporate it on my composition in relation with human rights, not just for the sake of telling a dramatic plot but to enlighten anyone who may read this that we may be able to provide his needs of love, care, patience, understanding and even his material wants in this world. But there's that longing, we hope that he will be able to savor the freedom to be treated equally by the community, to have all the opportunities, be accepted by many and never be looked down just because of his disabilities. Instead be given the chance to have a normal life because he may be different, yet he's still a Human.

Will this be possible? I believe so, as a famous line says: change is coming.