

Privilege Speech
Senator M.A. Madrigal
1 AUGUST 2006

Mr. President:

All of us here have taken a solemn oath to defend our Republic, uphold its laws, and maintain the strictest adherence to the supreme law, the Constitution. By direct mandate of the people, and by virtue of our oaths, we are in turn, tasked with proposing new laws, amending existing ones, and advocating policy in order to more fully bring our country's conditions in line with our common aspirations.

I wish to report to you, Mr. President, and through you, to our colleagues here and the nation at large, on activities I undertook during the congressional recess, in pursuit of justice, the defense of human rights, and for peace.

Mr. President, Everything we do –and intend to do- should be done with the fullest recognition of our responsibilities to country and people. Our lodestar is the Constitution. Our basic law upholds peace and non-violence as guiding principles; it is unreservedly in favor of human rights and condemns all violations of such rights; it asserts our country as one in which a regime of the *“rule of law and a regime of truth, justice, freedom, love, equality, and peace”* is supreme. Furthermore, among our principal state principles are the following:

That our nation renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations;¹ and,

That for our country, the maintenance of peace and order, the protection of life, liberty, and property, and promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy.²

Therefore, Mr. President, when our country finds its most cherished and sacred principles flouted by the Executive; when our land is blighted by an official policy of setting aside human rights; when political murder stalks our land, and officialdom turns a blind eye to such murders; then it is incumbent on us to do everything we can, to stem the tide of violence and official impunity.

That is why I personally filed a complaint on the worsening human rights situation before the Independent Experts of the United Nations High Commissioner for Human Rights (UNHCHR) through its Special Rapporteur. The capacity of an individual to file an individual complaint before a Special Rapporteur is a product of the “*Special Procedures*” available in the Commission on Human Rights. All the mandates of the Rapporteurs come from the Commission on Human Rights.

¹ Article II, section 2 of the 1987 Constitution

² Article II, section 5 of the 1987 Constitution

Mr. President, Mr. Ambeyi Ligabo, the UN Special Rapporteur on Freedom of Expression took cognizance of the complaint after I submitted to him documents and video material to substantiate it. **Rapporteur Ligabo has committed to make the Philippines his priority.** He has already sent a visit request to the Philippine Permanent Mission in Geneva. However, to date, there seems to be no response from the Executive.

Mr. Ligabo also mentioned that the Philippines would be under close scrutiny when the Human Rights Council reviews the human rights record of the country in the universal peer review (UPR). The power of the Human Rights Council to review the human rights record of a country is based on General Assembly Resolution 60/251 which specifically provides:

[5] e. *Undertake a universal periodic review, based on objective and reliable information, of the fulfillment by each State of its human rights obligations and commitments in a manner which ensures universality of coverage and equal treatment with respect to all States; the review shall be a cooperative mechanism, based on an interactive dialogue, with full involvement of the country concerned and with consideration given to its capacity-building needs; such a mechanism shall complement and not duplicate the work of treaty bodies; the Council shall develop the modalities and necessary time allocation for the universal periodic review mechanism within one year after the holding of its first session;*

Mr. President, on the 23rd of June, I also met Lydie Ventre, the Assistant of Professor Philip Alston, who is the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions. I gave her the complaint of KARAPATAN, a non-government organization human rights watchdog on the systematic, organized, widespread and continuous extra-judicial killings of activists in our country.

Based on the records of Karapatan, Task Force Detainees of the Philippines and other human rights NGOs, the number of extra-judicial killings and summary executions in the various regimes are:

President Marcos – 3000 ++ for a period of 15 years (martial law time)

President Aquino – 500 ++ for a period of 6 years

President Ramos – 300 ++ for a period of 6 years

President Estrada – 174 for a period of 3 years

President Arroyo – 705 as of 17 July 2006 – for a period of 5 years

Therefore, Mrs. Arroyo's record is next to that of Mr. Marcos. And to think that, officially, anyway, the present administration has four more years to go. We must ask ourselves, Mr. President, how many more people are still going to lose family members? Does the present administration want to outdo the Marcos regime?

During the dark days of the dictatorship, the government's policy was all out war, and a sustained persecution of dissidents to ensure the regime's survival. But prior to martial law, and after the flight of the dictator, our government's

policies were twofold: the vigorous pursuit of national defense, and the reintegration of rebels into the body politic. Some administrations have been more successful, and more sincere, than others. But our Republic has always been haunted by the specter of the poor, whether inducted into the armed forces or taking up arms as rebels, killing each other when reform is the common aspiration of our population.

The Romans may have advised that if you want peace, prepare for war; but we forget that Rome's greatest achievement was the *Pax Romana*. **Peace is our national policy, our political, social, and economic aspiration; for this chamber as for any official of this country, peace must always be relentlessly pursued, and sincerely attempted.**

It is for that reason, Mr. President, that I engaged representatives of the National Democratic Front in conversations during my trip to Europe. I did so upon their invitation; I did so with a sober and realistic appreciation of the differences in ideology between myself, the Republic I am sworn to uphold, and those representing the NDF. My meeting with them, Mr. President, as the communiqué issued on the 27th of June from the Netherlands makes clear, were **cordial, and frank.**

What did we discuss? We conversed on these four salient points:

1. *That the Macapagal Arroyo regime is responsible for the urgent problems that outrage the people such as electoral fraud in 2004, the high rate of unemployment, the rising cost of living, the alarming escalation of human rights violations, unbridled corruption, mounting debt and tax burden, the social degradation as manifested by abuse of women and children, and the rampant destruction of the environment.*
2. *That there is urgent need to unite the Filipino people and solve the armed conflicts by addressing the social roots of these conflicts through fundamental economic, social and political reforms.*
3. *That the formal talks between the GRP and the NDFP should be resumed as soon as possible.*
4. *That the all-out-war policy proclaimed by the Arroyo regime is not the answer but in fact will lead to further economic ruin and further escalate human rights violations and will create more internal refugees consisting mostly of women, elderly and children.*
5. *That the prejudicial question about the "terrorist listing" be resolved by the GRP and the NDFP by asserting the national sovereignty of the Filipino people over Philippine events and circumstances and by taking into account the recent Supreme Court ruling that "acts of terrorism" do not exist in the Philippine law and jurisprudence.*

These are points shared by wide sectors of our population, regardless of their ideological orientation. And they emphasize that the present administration, no matter how much it denies its direct participation in the killings and disappearances, bears responsibility for all that is happening. It has failed to practice due diligence in terms of preventing, prosecution, and punishment.

As a State that ratified the International Covenant on Civil and Political Rights, the Philippines is duty bound to promote, protect, respect and fulfill the right to life of every Filipino. The appalling record of the deaths and disappearances of activists -whose only sin is to disagree with the policies of the Arroyo government- is a gross, widespread and systematic form of human rights violation that should not only be condemned locally, as we have repeatedly condemned it in this chamber, but internationally as well. **The Arroyo administration should stop the killings and the disappearances and bring the perpetrators to justice. If it fails to do this, then its acquiescing to, and condoning of, these crimes must be assumed.**

Condemnation is not enough. To be able to avoid State obligation from a human rights violation, the State should be able to fulfill due diligence standards under international law. Due diligence standards can be fulfilled if the following obligations are fulfilled: The obligation to **PROTECT**; the obligation to **INVESTIGATE**; the obligation to **PROSECUTE**; and the obligation of **REPARATION**.

Mr. President, on the same day, the 23rd of June, I also met with Frederica Donati, the Assistant of Jean Ziegler, the Special Rapporteur on the Right To Food. We discussed the mining in Rapu-Rapu Island done by Lafayette which is of special interest to the Rapporteur.

On the 3rd of July, Special Rapporteur Jean Ziegler wrote me. Permit me to quote the pertinent parts of his letter:

[I] would like to take this opportunity to recall that, on 17 May 2006, I communicated to the Permanent Representative of the Philippines in Geneva my wish to undertake a mission to the Philippines later this year. To this end, I would be most grateful for any expression of support to my request which may contribute to advance the dialogue on this.

I was also informed that the situation related to the right to food on the island of Rapu-Rapu is of concern to you. In this regard, I wish to inform you that I previously communicated to the Government of the Philippines through its Permanent Representative in Geneva my concerns over the alleged violations and threats to the right to food of the people of Rapu-Rapu. In this context, I asked the Government for information on the steps taken to redress the alleged violations including the rehabilitation and compensation programmes for the affected communities and to prevent the reoccurrence of similar incidents including through the revision of the Mining Act of 1995, in compliance with the provisions contained in the relevant national legislation as well as the international legal instruments which the Government of the Philippines has ratified. In order to follow

this up adequately, I would appreciate it receiving any further details you may have on this case.

This letter, Mr. President, is of special significance. It underscores the fact that based on the records of the United Nations Office of the High Commissioner for Human Rights, there already at least 5 requests from Special Rapporteurs since 2004, for visits.

These visit requests have not been acted upon by the Department of Foreign Affairs. What visits are these? Namely the following: by the **Special Rapporteur on Migrants (Request in 2006); by the Special Rapporteur on Toxic Waste (Request in 2005); by the Special Rapporteur on Freedom of Expression and Opinion (Request in 2004); by the Special Rapporteur on the Right to Food (Request in 2006); by the Working Group on enforced and Involuntary Disappearances (Request in 2006).**

Aside from the five pending requests, there are two other visit requests that should have been made possible this year: a request by the Special Rapporteur on Adequate Housing and another request made by the Independent Expert on the Question of Human Rights and Extreme Poverty.

Mr. President, it seems to me that **the Department of Foreign Affairs needs to shed light on why the Philippines has been ignoring these visit requests, considering the Philippines is a member of the Human Rights Council, and that it behooves our government to be transparent about our human rights practices.**

Finally, Mr. President, again on the 23rd of June, I had the honor of meeting members of the Secretariat of the Inter-Parliamentary Union (IPU). I was welcomed by the IPU Secretary General Anders B. Johnsson. I also had a meeting with Marcelo Bustos Letelier, Director of the Division of Assembly Affairs and Relations with Member Parliaments, as well as Ingerborg Schwarz, Program Officer on Questions Relating to Human Rights.

After the meeting and after they expressed slight amusement on proposals to abolish the Philippines' Senate, the IPU expressed deep concern over the continuing oppression of opposition parliamentarians in the Philippines. They are considering sending a mission to the Philippines to investigate the human rights situation in our country as related to the treatment of opposition parliamentarians.

I am gratified to inform you, Mr. President, that the Geneva visit was quite productive. A fuller picture of the Philippine human rights situation, in direct contrast to what the Philippine Permanent Mission tries to portray in Geneva, emerged. I sincerely hope that the meetings will serve as a catalyst for accountability.

Mr. President: It is a supreme irony that the Philippines ratified all the major human rights conventions, particularly the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights and has even abolished the death penalty -only for the brazen violation of the basic rights of our people to life, to freedom of expression and opinion, freedom of political participation, freedom on the right to food and housing, to increase in both number and intensity.

It is time for the administration to recognize that our state principles are not pious platitudes but rather, the will and right of our people. We cannot have a Republic that campaigns for, and wins, a seat in the Human Rights Council, only to ignore human rights at home. The administration, in its folly, seems to think it can attempt to destroy the credibility of human rights defenders in our society, and cover up its human rights record by using spin doctors. But I saw, mercifully, I must say, that it is a totally different story in Geneva. In Geneva, a government's performance and compliance with its treaty obligation are measured not through column inches of public relations-oriented press releases, or by bribes making possible such praise releases, but rather, by monitoring the actual practices of states. International treaties, such as the ones that we have ratified, are the benchmark for these measurements. Our country, in terms of this measure, has been found wanting.

The apparent failure of the government to be transparent about its human rights record has also been mentioned by Commission on Human Rights (CHR) Chair Purifacion Quisumbing as a possible ground for the Philippines to be "blacklisted" by the United Nations. In a symposium held on 27 July 2006 before the National Defense College of the Philippines (NDCP), CHR Commissioner Quisumbing said that, government has yet to submit fourteen (14) overdue reports dating as far back as 1992 to various treaty bodies. These reports are part of the country's obligations to the United Nations under six (6) international human rights treaties it entered into, namely: the International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Political Rights; Convention on the Elimination of all forms of discrimination against Women; Convention on the Rights of the Child; Convention against Torture and

other Cruel Inhuman and Degrading Treatment and the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.

However, Mr. President, let it not be said that what people say abroad is the gospel truth. If the administration has nothing to fear, then the President should open the country to international scrutiny and let independent experts judge what kind of human rights reality exists in our country.

But I must confess to serious skepticism as to either the President's willingness, or ability, to submit to such scrutiny. This administration has chosen to live by the sword, though our Constitution renounces war as national policy. It is for this reason, Mr. President, that **I submit that the one billion-peso allotment for the total war policy against communist insurgents is morally unjust. It is a waste of money; it demands the taking of Filipino lives, while the root causes of the conflict are not genuinely addressed. The total war policy is a product of a megalomaniacal government, one that tries to suppress dissent at gunpoint. A thirty-seven year old rebellion cannot be crushed through killings, it can only be managed and resolved through negotiations accompanied by genuine reforms.**

To the hawks of this administration, let the words of Herman Göering from the Nuremberg Diary confront them with its awful cynicism: *"Why of course, the people don't want war. But, after all, it is the leaders of the country who determine the policy and it is always a simple matter to drag the people along, whether it is a democracy or a fascist dictatorship. Voice or no voice, the people can always be brought to the bidding of the leaders. That is easy. All you have*

to do is tell them they are being attacked and denounce the pacifists for lack of patriotism and exposing the country to danger. It works the same way in any country."

Mr. President, in the face of sustained and malicious criticism from the propagandists of this administration, let me assert that I will continue to stand up, fight, and speak up for what is right and what is true for the Filipino people.

This chamber and our people deserve answers.

The DFA must tell our people why the visit requests of the Rapporteurs are not being acted upon considering our membership with the Human Rights Council;

The administration must explain to our people how it can denounce political murders while praising Gen. Palparan. And this chamber, I submit, Mr. President, must pass a resolution on the wave of extra-judicial killings and disappearances in the country: condemning them, in the clearest manner, as an affront to justice, human rights, and decency.

I ask this chamber to commit, furthermore, to legislative action in two respects: first, for us to consider a Bill on criminalizing disappearances; and second, for us to deliberate on a Bill on criminalizing torture.

Proposing these resolutions and bills is necessary, Mr. President. It is our collective responsibility. It is the call of the times, and the clamor of history.

As the late Senator Jose W. Diokno said, in the dark days this chamber was padlocked by the dictatorship, *“If we do not struggle with all that we can have and do all that we can to vindicate our rights, we not only condemn our rights to death; we also condemn our hopes and dreams, our present, and our children’s future. Which course shall we choose?”*

Mr. President: The Constitution must be vindicated; we must choose to uphold our rights; knowing that this is the universal choice: the eternal and perfecting hopes of our people.

I thank you.