

The Truth Commission: Will Justice Be Served?

Justice cannot await any government action. It is up for victims of rights violations and those directly or indirectly affected by corruption, plunder, and electoral fraud to by, their own efforts, let justice bear upon the perpetrators.

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President Aquino III's move to form a Truth Commission that will investigate Gloria M. Arroyo's alleged wrongdoings committed in nine years of her presidency raises public expectations way above government's ability to meet. Right now, there are courses of action that can be taken by independent groups serious with the prosecution of the discredited former president without even waiting for Aquino to fulfill his campaign promises in putting closure to Arroyo's accountability for the alleged public crimes.

Under her 9-year watch (January 2001 - June 2010), Arroyo along with many top officials were implicated in election fraud, major cases of corruption, plunder, and gross and systematic human rights violations. These allegations led to the filing of four successive impeachment complaints against her and - in the case of the rights violations - in the holding of a number of independent tribunals that found the former president guilty. Although Arroyo was the alleged principal perpetrator these cases could not have happened without the complicity of her political allies, Cabinet members, generals, business cronies, and others. Justice has been denied owing to the inaction if not the complicit role of top officials of the Ombudsman, prosecutors, and state investigators.

At this point, nothing is clear about the task of the Truth Commission. This early, however, the independence of the commission is being questioned given that it will be headed by a former Arroyo appointee. Former Supreme Court chief justice Hilario G. Davide, Jr. Davide, who once headed the fact-finding commission on the coup attempts

staged against President Corazon C. Aquino in the late 1980s, served as permanent representative of the Philippine mission to the United Nations and had sworn Arroyo to the presidency in 2001 upon the ouster of then President Joseph E. Estrada.

The proposed presidential commission is not without precedent. There was the Agrava Commission that probed into the assassination of opposition figure Benigno Aquino, Jr. in 1983. Others were the Davide Commission, Feliciano Commission (Oakwood mutiny, 2003), and the Melo Commission (2006) that looked into political killings. Although the Agrava commission linked military men to the 1983 assassination its mastermind remains unknown to this day. The Davide commission only resulted in a "kid's gloves" approach to the coup plotters. Leaders of the Oakwood mutiny were detained and tried but the issues they had raised including corruption in the armed forces remain unheeded to this day. The Melo commission became just a political ploy to neutralize the growing international outrage over the political killings.

Specific investigations

What is common among these past commissions is their investigation of specific cases, whether incidents of political assassination, coup attempts, or the summary execution of activists. The proposed Truth Commission is more than this: It is expected to look into cases of corruption, plunder, electoral fraud, and human rights violations. Similar to the past commissions, the new Davide-led body will investigate but can only recommend

the prosecution of perpetrators. What happens after that is an entirely different story.

Even if it is formed as a superbody with powers to summon both alleged perpetrators, co-conspirators, and witnesses the proposed commission's mandate will likely be so vast that fulfilling its mission would be agonizingly long if not nearly impossible. Theoretically, a truth commission should only look into a specific incidence of inter-related crimes. Thus it has the choice of probing into corruption, electoral fraud, plunder, or human rights cases. Among others, the professed goal is to put an end to a heinous crime committed over a period of time, deliver its perpetrators to justice, and bring about a major transformation. The prosecution of Arroyo and other officials for corruption, for instance, can be a definitive step toward fulfilling Aquino III's campaign pledge to end the culture of corruption in government.

However, in any of the possible areas of investigation, evidences, documents, and testimonies are already ample and available these having been gathered in numerous hearings and investigations done by both government and constitutional bodies as well as by credible independent groups and international organizations. The truth that the commission seeks to find and consolidate is distilled in these data that can be used to build a strong case. With all the information available, it would be redundant for the Truth Commission to conduct another lengthy investigation especially when what is needed at this time is speedy justice.

Regardless, the Truth Commission will conduct its own inquiry. For investigation to be credible it will have to summon not only the principal respondent but all other authorities and individuals without whose complicit role the alleged crimes would not have been committed and several laws violated in a period of nine years. These elements are still entrenched in government, hold powerful positions whether in the civilian or military-police institutions and, who knows, a number of them have been appointed or re-appointed in the Aquino cabinet.

Then, what?

Granting an investigation is done, how will the prosecution then proceed? Aquino III needs all the

political will and support he can muster just to overhaul the Arroyo-appointed Ombudsman and other legal bodies so that the judicial process can move forward. Without congressional enactments, however, the agencies concerned cannot just be made to act accordingly these being constitutional bodies. The Philippine justice system is weak and unreliable yet too politicized that legitimate cases not to mention charges involving the powers that be will not prosper.

With all these gridlocks, there are courses of action that the new president can – and should – do without even waiting for the Truth Commission to begin its herculean task. For instance, he should now rein in the military and assert civilian authority by terminating the counter-insurgency program that continues to involve political killings and buckle down to serious peace talks with the armed Left and MILF. He should order the justice department to proceed with the first complaint filed against Arroyo instead of holding it in abeyance in deference to the Truth Commission. He can ask Congress to act on a pending bill increasing the powers of the Commission on Human Rights (CHR) for the prosecution of erring military and police forces.

A historical lesson is worth mentioning at this point. Ferdinand Marcos was ousted by people power in 1986 following years of corruption, plunder, and human rights violations. But the first directive issued by Corazon Aquino when she took over the presidency is to provide immunity from prosecution to all Marcos officials and generals involved in human rights cases. There was “reconciliation” with the oppressors; victims have long been forgotten to this day. With all this betrayal, thousands of torture victims filed a class suit against the Marcoses in Honolulu and succeeded in getting a conviction later.

Justice

This only proves that justice cannot await any government action. It is up for victims of rights violations and those directly or indirectly affected by corruption, plunder, and electoral fraud to by, their own efforts, let justice bear upon the perpetrators. Legal alternatives can be mulled on how and where legitimate cases against Arroyo and company can be filed. Hope is not lost; only the collective will of the people can make it happen.

Truth Commissions emerged from civil strife and transitional periods in some countries of South America, Africa, and Asia during the 1970s. Generally, they dealt with human rights with investigations focused on patterns of mass killings and state-sponsored terrorism. Their role is as part of the “healing process” that aims to put closure to a history of repression and provide trauma healing and restorative justice to its victims and their surviving families. These high expectations were, however, not generally met because some of the commissions lacked impartiality or independence. In other countries, amnesties were given right away to perpetrators at the expense of the victims themselves. Some transitional governments used the truth commission as a means of reconciling with the past – without necessarily allowing justice to prevail.

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