

## Freedom of Information Issues and Concerns

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Mr. Aquino and his allies in Congress led the campaign to remove former Chief Justice Renato Corona on, among others, charges of betrayal of public trust, with Aquino being openly and loudly critical of Corona's bias for the past administration, against the former officials of which corruption and other charges would likely have been dismissed once they reach the Corona Court.

The Aquino thesis was that Corona was a barrier to the successful prosecution of government wrong-doers as evidenced by the Supreme Court's decisions on a number of cases. While Corona's impeachment trial did not establish the validity of that argument, it did create, thanks to Corona himself, serious doubts not only about his capacity to lead the Court, but also about the entire judicial system.

Aquino et al. can rightfully take the credit for, at the very least, providing the citizens of this Republic the opportunity to see behind the pretensions of those who claim to have the moral and legal authority to pass judgment on them and the façade of respectability of a damaged and damaging court system.

Whether that system can still be fixed is an entirely different matter, and it won't solely depend on Aquino's choice for the next Chief Justice. The mess in the judicial system has been in the making for decades in terms of inefficiency, corruption, and most fundamentally, the dominance of judges obsessed with entitlement and power rather than with justice.

Let us grant, however, that the Corona impeachment and conviction did open the public's eyes to the state of that system, and that the filing of charges against corrupt former officials does resonate among the citizenry as indications that Aquino's declared campaign against corruption could be more than rhetoric.

But at odds with that perception is the by now obvious Aquino resistance to the passage of an authentic – meaning a law that will indeed enhance public access to information rather than restrict it – Freedom of Information act. That resistance seems based on the fear that public and media access to government-held information would compromise “national security,” and hamper government agencies' capacity to make and implement policy by opening those agencies and their officials to excessive public scrutiny.

These are misplaced fears based first of all on a secrecy mindset that deny the fundamental right of the citizenry to knowledge of government transactions, decision-making, and policy. They also ignore the crucial role an informed citizenry can and has played in exposing corruption and bringing its sovereign power to bear on eliminating or at least minimizing it.

We do not have to look too far for an example, the outcome of the Corona trial itself being mostly the result of public awareness and the pro-active involvement of advocacy groups. But in the latter days of the martial law period particularly, a citizenry disempowered by the Marcos tyranny managed to acquire, through the alternative press and other sources, the information on corruption and human rights violations that eventually helped lead millions to mass at EDSA and oust the Marcos regime. Fifteen years later, in 2001, information on his hidden wealth also led to the removal from office of Joseph Estrada and his prosecution for plunder.

In apparent awareness of the crucial role of a public informed on what government is doing in exposing and curbing corruption, the Arroyo administration made concealment of government acts and transactions a policy through, among other tactics, its use of executive privilege to prevent the release of information damaging to it, and its Ombudsman's restricting

access to the Statements of Assets and Liabilities and Net worth of government officials. Through a twin policy of default in prosecuting the killers while attacking journalists through libel suits and outright threats, it also so encouraged the killing of journalists it made the Ampatuan Massacre of November 23, 2009 virtually inevitable.

Extra-judicial killings and other human rights violations in furtherance of preventing public exposure of wrong-doing also escalated during the Arroyo regime. But largely unremarked is the connection between human rights violations, the killing of journalists, and government corruption. Like the murder of journalists, the killing of community activists, in many cases by such state actors as the police, the military and local officials, is in the majority of cases driven by the conspirators' need to conceal corruption and criminality.

Environmental advocates have been killed for exposing and opposing local officials', police and military collusion with illegal logging interests. Research has established that ninety percent of the journalists killed in the Philippines since 1986 were reporting and commenting on corruption and criminal syndicates in the communities. Journalist Marlene Esperat, for example, was killed in 2005 in Tacurong City, Sultan Kudarat for exposing the involvement of officials in the local office of the

Department of Agriculture in the use of fertilizer funds in the 2004 elections.

There is a necessary connection between eradicating or minimizing corruption and citizen and news media access to information. But the press and the public can only be assured of meaningful access provided an authentic Freedom of Information act is passed in this country (which almost uniquely in Asia does not have such a law), and the culture of impunity dismantled through the successful prosecution of the killers of journalists, political activists, human rights workers and others exposing and fighting corruption whether at the national or community level.

Mr. Aquino declared the people his "boss" during his inaugural speech in 2010. They are indeed his superiors. Sovereignty resides in the free men and women in this alleged democracy, who have merely delegated their power to officials they themselves choose-- theoretically. But they are also the necessary actors and participants in putting an end to the corruption that, among such other factors as the gross inequality in the distribution of wealth, has hobbled this country's capacity to rise above its problems. That Aquino and company cannot seem to understand this dooms the campaign against corruption to, at best, only limited and tentative success.

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