

HUMAN RIGHTS: VITAL TO HUMAN LIFE



Image taken from oxfamblog.org

[Paper read by Aquilino Pimentel Jr., former member of the Committee on Human Rights of the IPU, before the IPU Conference in Manila on February 27, 2015]

Human Rights make people's lives worthy of human beings.

Bereft of human rights, people are reduced to the status of animals.

Beasts of burden of the affluent.

Servants of the powerful.

Or robots of their well-off masters.

Then, might becomes right.

Even in the political, social, and economic fields.

But, when recognized and respected, human rights become the great equalizer of peoples.



In ancient times, it was Cyrus, the Great, who - recognizing human beings as equals - freed slaves in 539 B.C.

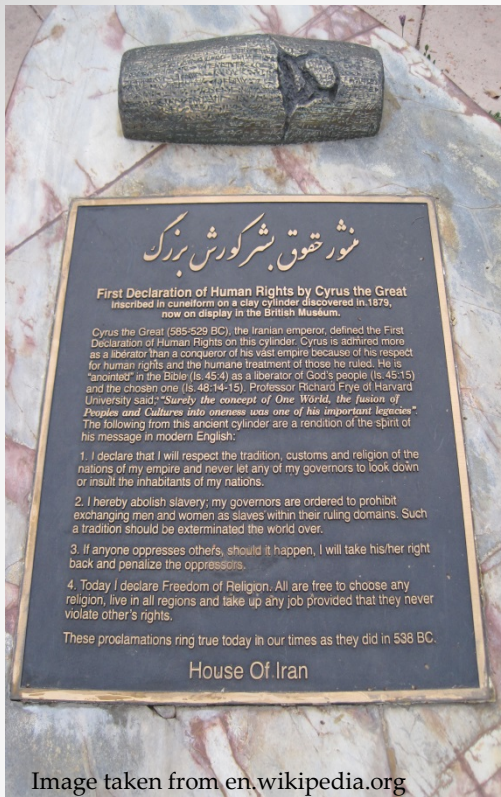


Image taken from en.wikipedia.org

In the medieval period (1154-1485), the Magna Carta Libertarum which the feudal lords of England compelled King John to issue at Runnymede in 1219 ultimately led to the spread of the concept of human rights to mainland Europe, then, to the US, and today, to other parts of the globe.

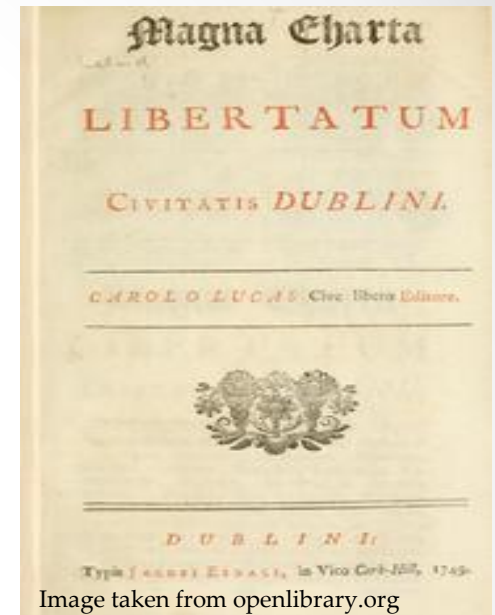


Image taken from openlibrary.org

In the modern era, it was most likely the adoption in 1948 by the United Nations of what is now known as the Universal Declaration of Human Rights that awakened nations around the globe to the critical importance of the promoting and respecting Human Rights in their individual jurisdictions.

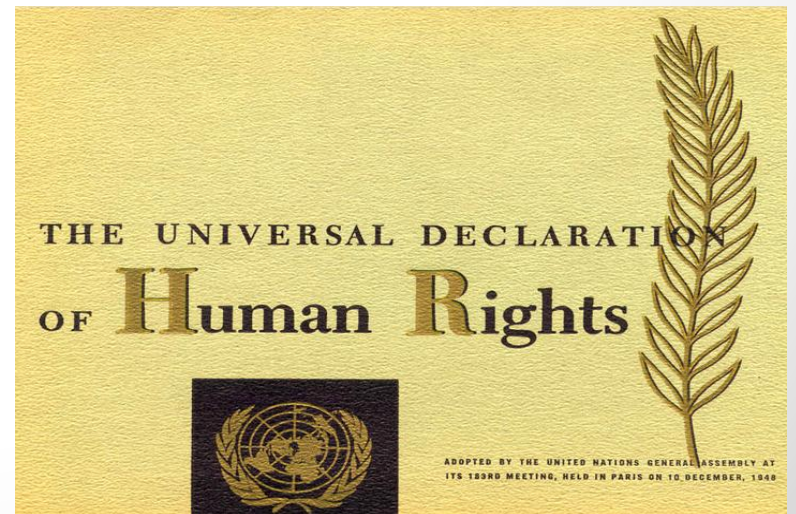


Image taken from safecom.org

UN Declaration, adopted

Some 56 member-nations of the UN adopted the Declaration.

The approval by the delegates concerned simply meant that the Universal Declaration of Human Rights now bound the signatory-countries to abide by, promote and protect those rights in their respective countries.

It must be acknowledged, however, that the American Declaration of the Rights and Duties of Man preceded the UN Declaration mentioned above “by less than a year”.



American Declaration

The American Declaration was signed by 21 countries in Bogota when they formed the Organization of American States.

The American Declaration, however, did not carry the approval of the US, primarily because in the US view, the Declaration did “not have a binding set” of obligations for the member States to follow.



Image taken from www.esmoas.org

In the recent decades, more regional organizations of nations have assumed the obligation to promote and protect human rights.

Aside from the Organization of American States mentioned above, Africa, and the ASEAN promulgated their own institutions to promote and protect human rights.

In Africa

The 1981 African Charter on Human and Peoples' Rights, and the African Commission on Human and Peoples Rights set the stage for the promotion and protection of human rights in the region.

The human rights expansion efforts in Africa received a big boost from the recently established' African Court on Human and Peoples' Rights, which, according to internet sources "is intended to be merged with the African Court of Justice"



In Asia

In Asia, the ASEAN, the Association of South East Asian Nations, is the more aggressive organization of nations in the matter of promoting and protecting human rights.



ASEAN Intergovernmental Commission on Human Rights

www.aichr.org

The ASEAN Intergovernmental Commission on Human Rights (AICHR) was established in 2009.

AICHR, Launched

A year later, on October 23, 2010, the AICHR was formally launched by the foreign ministers of ASEAN in Thailand.

As of this writing, to the best of our information, no single court on human rights issues has yet been created in the Asian continent or even in the ASEAN.



Image taken from www.fnf.org.ph



In the recall of events relating to the development of the concept of human rights, it may sound as if getting Human Rights accepted by peoples of varied races, traditions and cultures in their own jurisdictions was the easiest thing to do.

It was not.

Heroic

But, for the heroic efforts of some outstanding members of parliament to promote and protect human rights in their individual countries, the Universal Declaration of Human Rights might have remained a stale, empty and ineffectual declaration.

A great part of the tribute to the heroic deeds of parliamentarians in promoting and protecting human rights, however, belongs to the Committee on the Human Rights of Parliamentarians, and to its parent organization, the IPU.

The Committee's ceaseless concern for the promotion and protection of human rights the world over, and the IPU's noble espousal of those rights make the cause relevant to people's lives.

Due to time constraints, only three examples of such parliamentarians are mentioned here, namely: Merve Kavakci of Turkey; Pierre Jacques Chalupa of the Democratic Republic of Congo, and Javed Hashmi of Pakistan.



I – MP Merve Kavakci of Turkey

Merve Kavakci, a newly elected member of the Grand National Assembly of Turkey was prevented from taking her oath by her colleagues on May 4, 1999.

The reason was that she wore a scarf covering her head as a part of her accouterment.



Image taken from Wikipedia

Her colleagues, including the Prime Minister at that time, saw the scarf as a religious symbol, which they said violated the secularist ideal that their country had adopted.

They booed and pushed her out of the area where the oath-taking was being held.

Kavakci believed that she had the right to wear the scarf as a part of her freedom of expression, if not of religion. She refused to remove her scarf, and spoke out against the harassment to which she was being subjected.

The incident was brought to the attention of the Supreme Election Council of the Grand National Assembly.

On May 20, 1999 or sixteen days later, the Council issued an advisory in her favor.

Nonetheless, in addition to barring Kavakci from wearing a scarf to the lawmakers' oath-taking, one year and seven months later, in March 2001, she was expelled from the parliament for alleged lack of requisite citizenship.

The expelling authorities were not concerned at all that her alleged lack of citizenship had been cured by her marriage to a citizen of Turkey on October 28, 1999.

Refusing to be shamed into silence, Kavakci took her cause to various forums, and contested her ouster before the European Court of Human Rights in that same year.

The Court, however, failed to resolve the case swiftly.



Image taken from weekly.ahram.org.eg

CHRP comes in

In 2002, the CHRP took up her case.

In brief, the Committee found that Kavakci's human rights were violated, not only because her colleagues prevented her from taking her oath, but more importantly, because they expelled her from the parliament.

Using the findings of the Committee, the IPU decided to intervene in the case - with leave of the European Court of Human Rights on October 4, 2005.



IPU, too

The IPU argued that Kavakci's freedom of thought, conscience, and religion and her right to fair and public hearing were violated by the actions of the Grand National Assembly.

Inter-Parliamentary Union

Brushing off the legal arguments raised in her favor, the Turkish government deported Kavakci to the United States on the ground that she was an American citizen even as her case was still pending before the Court.

In the event, on April 5, 2007, the Court - some six years after the case began -
● finally decided in Kavakci's favor. ●

Wider Effect

Probably, without her realizing it, the cause she was fighting for had a wider relevance than her own personal satisfaction.

Not only was she vindicated at the end of her struggle, her unselfish and dedicated efforts as a human rights advocate terminated a specific discriminatory practice against women parliamentarians in Turkey.

Today women parliamentarians in Turkey can freely wear scarves even to their official functions as members of the parliament of the Turkish Grand National Assembly. It is an affirmation of their freedom of expression that is an integral part of their human rights as human beings.



Image taken from www.habervactim.com

Recently, the Guardian reported that "an Iranian journalist has received a human rights award in Geneva for creating a Facebook page inviting women in Iran to post pictures of themselves without their headscarves in defiance of rules requiring them to wear a hijab.

"Masih Alinejad, 38, launched Stealthy Freedoms of Iranian Women last year, attracting more than half a million likes on Facebook in a matter of weeks. Thousands of women took off their veils in public and sent in their photos to be published."



Image taken from: www.theguardian.com

II. Pierre Jacques Chalupa of the Democratic Republic of Congo

The case of Pierre Jacques Chalupa, a member of Parliament of the DRC, is another example of a member of parliament who was discriminated against by his own government.

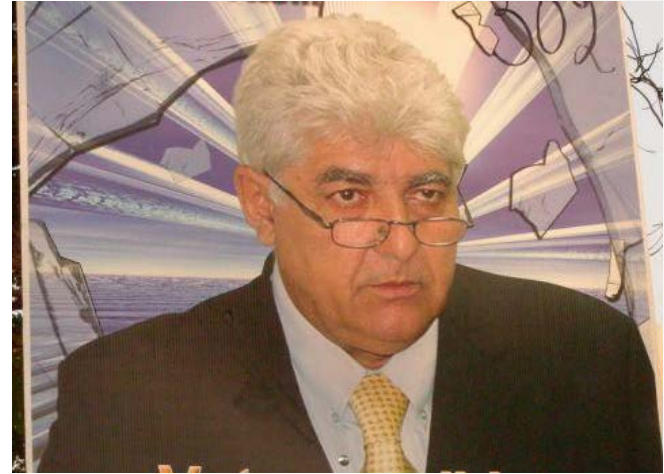
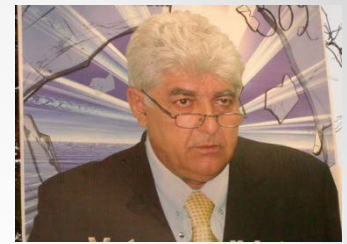


Image taken from democratiechretienne.org

For backgrounders, although Chalupa's father was from Portugal, and his mother was from Greece, he was born in the Congo.

In the July 2006, he was elected a member of the Parliament of the Democratic Republic of Congo to represent the Kinhasa district of Lukunga.

Later in that year, 2006, he was expelled from the parliament of the DRC on charges that he had falsified his citizenship papers.



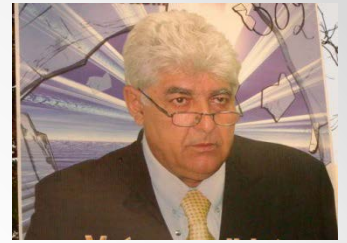
Case to CHRP

Chalupa took his cause to the Committee on Human Rights of Parliamentarians.

The CHRP found that the expulsion of Chalupa - along with some other opposition MPs from parliament - was riddled with so many legal infirmities.

While their case was being discussed before the CHRP, the leaders of the DRC parliament informed the Committee that they were already “compensating” the complaining MPs, and were addressing the issues raised by them, including Chalupa’s.

Believing that the problem was heading towards a just resolution, the CHRP recommended that it be threshed out by the DRC authorities and the complaining MPs among themselves.



Jailed

The case against Chalupa, however, did not turn out for the better.

In February 2012, he was ordered jailed by a DRC court for three years for allegedly faking his citizenship as a Congolese.

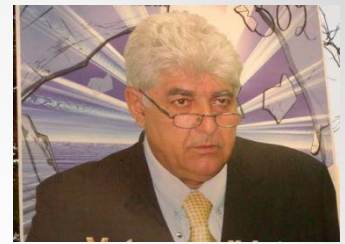
Undeterred by that development, the CHRP and the IPU continued to monitor his case.

Among other things, Chalupa proved before the Committee that his citizenship papers were, in fact, provided him officially by a department of the DRC.

IPU visits DRC

And in June of 2013, IPU mission went to the DRC to look into the Chalupa case, and of the other complaining parliamentarians.

Four months later, that is, in October 2013, the IPU Assembly in Geneva issued a resolution “lamenting the lack of progress” on Chalupa’s case and that of 33 other Congolese MPs, implying that Chalupa’s incarceration was in all likelihood arbitrary.



Amnesty

Roughly a month later, on November 22, 2013, to be precise, Chalupa was amnestied by presidential decree.

By that time, the MP had served more than half of his three year prison sentence.

Chalupa's case showed that fighting against what might be called a "*reverse racial discrimination*" that was perpetrated against the first white man to run for the position of a member of parliament of the DRC was well worth the ordeals that he had to go through.

The IPU Governing Council, in fact, unanimously issued a Resolution dated March 20, 2014 declaring that the proceedings against Chalupa were "initiated ... to neutralize him politically (for joining) the political opposition".

Further, the Resolution stated that the Congolese authorities, themselves, had recommended the granting of amnesty to Chalupa "to ease the political tension" in the country."

Vindication for Chalupa

For the government of the DRC to grant amnesty to Pierre Jacques Chalupa “to ease public tensions” in the country cannot but be interpreted as a tribute to the courage of the man.

It also sufficiently vindicates the sacrifices he had to bear to establish his right to stand for public office despite the color of his skin so that he could serve the people.

In the eyes of the IPU Governing Council Resolution the case of Chalupa reaffirmed that “the right to a nationality of every human person is a fundamental human right”, and “that the arbitrary deprivation of nationality, especially on discriminatory grounds such as political or other opinion ... is a violation of fundamental freedoms.”

Had Chalupa just kept quiet and “let sleeping dogs lie”, he would not have been jailed.

But, he spoke out. And because he did, human rights took a long step forward in the Democratic Republic of Congo.



Image taken from www.ipu.org/press-e

III. Javed Hashmi of Pakistan

The third example is the case of Member of Parliament Javed Hashmi of Pakistan.

As a member of parliament of Pakistan, Hashmi was appointed Federal Minister for Health by Nawaz Sharif in 1997.

In 1999, General Pervez Musharraf staged a coup d'état that overthrew the duly elected government of Nawaz Sharif.

Sacked by regime

Hashmi was one of the officials of the Nawaz Sharif government who was sacked by the new military regime.

Believing that he had the right to speak out his mind – four years into the military rule of Musharraf - Hashmi held a press conference on October 20, 2003 where he read a letter from anonymous sources that charged some military officers backing up the Musharraf regime with corruption.



Image taken from wikipedia.org

- Musharraf took offense at the charges of Hashmi.

MP, arrested

On October 29, 2003, nine days after the Hashmi press conference, Musharraf had the MP arrested.

Subsequently, Hashmi was tried in a jail in Central Adiala where the public and the press were barred. Normally, he would have been tried publicly in a “district and sessions court” having jurisdiction over the case as required by Pakistani law.

Six months later, that is, on April 12, 2004, Hashmi was sentenced to 23 years in jail for “inciting mutiny in the army, forgery and defamation.”

CHRP takes up case

In October 2004, the CHRP took up the case of Hashmi.

Delving into the details of the case, the CHRP discovered that Hashmi had also proposed during the press conference for which he was convicted that a legislative investigation should be held on his expose.

Moreover, the CHRP found, among other things, that the judge who tried the case heard only the prosecution witnesses. Not a single witness was allowed to testify for Hashmi.

And while he was undergoing trial, Hashmi was placed under solitary confinement even if there was no order from an court which the laws of Pakistan required.



Image taken chagataikhan.blogspot.com

Exercise discretion

Thus, the Committee called on the Speaker of the Pakistani Parliament “to exercise his discretionary power and order Hashmi to be brought before the Parliament so that he could be heard fully by his peers.”

Perhaps, the Committee’s suggestion to the Speaker of the Pakistani Parliament facilitated the granting of bail to Hashmi in 2007 by a branch of the Pakistani Supreme Court. This, after he had served three and half years in prison.

Thus, on August 6, 2007, Hashmi walked out of the prison gates.

Rearrest

But, on November 3, 2007, Musharraf had Hashmi rearrested.

As fate would have it, Musharraf was ousted from power, and was replaced as president by Zardari, husband of Benazir Bhutto (who had been assassinated).



Image taken from news.xinhuanet.com

In February of 2008, parliamentary elections were held in the country.

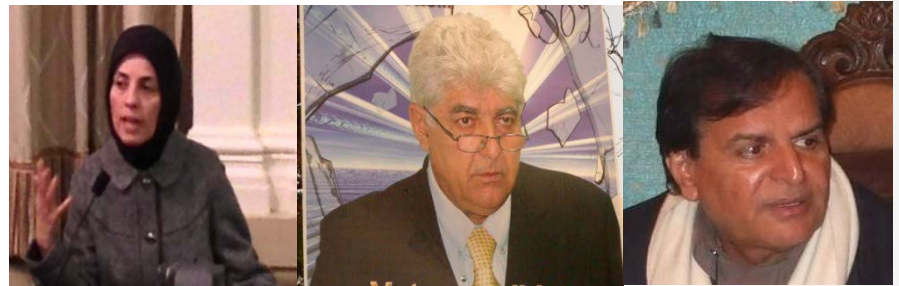
Hashmi ran and won handily in his district.

Free man

On April 18, 2008, at the CHRP meeting at Cape Town, South Africa, much to our surprise, Hashmi appeared before the Committee.

He thanked the Committee for its persistence in pressuring the Pakistani government to uphold his rights as a member of parliament and as a human being.

The cases of Kavakci, Chalupa, and Hashmi demonstrate that members of parliament can play decisive roles in the promotion and protection of human rights in their jurisdictions, but, at the expense of their comfort zones, and, often, even at the cost of their individual liberties.



Kavakci

Chalupa

Hashmi

There are other examples where members of parliament have paid the supreme sacrifice to promote and protect human rights in especially in developing countries.

Time restrictions prevent our delving into their heroic struggles in the field of human rights.

Since this paper is supposed to cover also the Human Rights situation in the Philippines, let us now turn our focus on it.

The Philippine situation

In the Philippines, we now have a Human Rights Commission (CHR) was created by mandate of the 1987 Constitution of the country.



The Commission is mandated by the basic law of the land to find ways and means of promoting and protecting the human rights of the people of the country.

The Constitution was crafted under the Presidency of Cory Aquino after President Ferdinand E. Marcos was ousted by “People Power” in 1986.

How has the CHR performed?

In the assessment of international observers, the country’s record on human rights is, to say the least, ambivalent.

Better than none

But to those of us, who had our share of oppressions during the Marcos 14-year authoritarian rule (from 1972 to 1986), the promulgation of the new constitution has created a new environment that obliges all concerned to respect the basic rights and fundamental liberties of our people.

This is not to say that everything is all right regarding the protection and promotion of human rights in this country.

Much still has to be done so that the human rights of peoples regardless of rank, race, wealth or status would be adequately protected and promoted.



Image taken from www.oei.es

Personal experiences

I was asked to also discuss my personal experiences as a public official and as a legislator of the country.

Let me, then, state that during the parlous years of martial rule, I was arrested without just cause four times, and thrown out of office to which I had been elected, first as the opposition Mayor of my home city, Cagayan de Oro in Mindanao, and later, as an opposition member of the parliament called the Batasan Pambansa (National Assembly) that was created by Marcos.

My incarcerations, including the time when I was placed under house arrest, were not for long periods of time.

But, that the imprisonments as well as my ousters from office were arbitrary are beyond question.

Of my four arrests, I was bailed out once by the people of my city (Cagayan de Oro in Mindanao) when the right to bail was restored by the martial law regime.



As an aside, I was under house arrest at the time when Benigno Aquino, (father of the present President of the country, Benigno S. Aquino) who was a senator at the time martial law was imposed, was shot dead at the Manila International Airport on August 21, 1983, when he (on his own volition) came home from exile in the US.



Image taken from iconicphotos.wordpress.com

He left the comforts of the US to assert his human right to live in his homeland, and to express his dissent to the then continuing dictatorial rule of Marcos.

He got a bullet in the head for his efforts.

Four arrests

In my case, I was arrested on four different occasions without my being formally informed why, and without any right to bail (except in the last arrest as is explained more fully in the later pages of this paper).

On one occasion, I was placed all alone in a small hut that was converted as a prison - inside a military camp.

It was a far cry from the solitary confinements that other parliamentarians had suffered at the hands of their oppressors especially in developing countries. But just the same, it was surely not the place where anybody, especially politicians like me, would want to be.

In any case, my fourth arrest took place on March 7, 1985 .

The charge was that I had allegedly abetted an ambushade in Cebu City.

Cebu is an island in the Visayas that is 118 nautical miles away from Cagayan de Oro City, where at that time I was serving as the opposition mayor to the Marcos regime. And even by plane, it would take roughly 30 minutes to get to Cebu from my city in Cagayan de Oro.



Bail

Luckily for me, by the time of my fourth arrest, bail was already allowed to be put up. Thus, the people of my city contributed their hard earned pesos and centavos to bail me out.

The case against me was sheer fabrication. The authorities concocted the case to immobilize and silence me.



I refused to be muzzled. Hence, when Marcos called for elections for members of the, then, unicameral legislature, the so-called regular Batasan Pambansa (National Congress of the Philippines), I stood as a candidate.

Marcos did not prevent me from doing so because it would have negated what he had propagandized to foreign media that he was restoring normal democratic practices in the nation.

Winning a seat as an MP

I was, however, barred from campaigning as officially, I was under house-arrest. Nevertheless, the people of my city elected me to represent them in the Batasan.



Still, I was not allowed to take my seat as a member of the national legislature upon complaint of my opponent who was the candidate of the Marcos martial law regime.

I went to the Supreme Court to contest the refusal of the Commission on Elections to proclaim me as the rightfully elected representative of the City of Cagayan de Oro to the Batasan.

Supreme Court rescue

Months later, when it was getting apparent that the people were now getting restless living in an atmosphere of repression under martial rule, the Supreme Court sustained my case, and I was allowed to take my seat at the Batasan.

In 1986, the people ousted Marcos by what is now popularly known as People Power.

By the grace of the Almighty, I survived all the harassments that were thrown my way by the dictatorship.



1986 EDSA 1 People Power Revolution against corrupt Marcos Dictatorship

Image taken from indybay.org

Positive contributions

On the positive side, the repressions I had to bear during the martial law regime, contributed much to make me a viable national candidate for the Senate, the upper chamber of our bicameral legislature. In the Senate, I spent 18 years in three terms of six years each.

There, I was able to author or co-author a number of human rights legislations.

Among the more outstanding human rights laws that were passed by the Philippine Congress when I was in the Senate include the following:

1. The Act abolishing the death penalty in the country.
2. The "Kasambahay" Act that requires fair treatment, and the payment of fair wages to "house helpers". It also granted them social security benefits, relaxation time, and medical care expenses under the PhilHealth care system.
3. The Anti-Torture Act;
4. The Anti-Trafficking Act;
5. The Act penalizing enforced or involuntary disappearance, and
6. The Act Defining and Penalizing Crimes against International Humanitarian Laws and other serious International Crimes.
7. The Act Creating the Autonomous Region in Muslim Mindanao as amended.



Image taken babble.com



The law creating the ARMM is mentioned because that it was also intended to help promote the human rights of the people in the Autonomous Region as a part of the government's efforts to lay the basis for a just and lasting peace in Mindanao.

There are many other laws that promote and protect human rights in the country.

But, as is usually the case, especially in a country that is still trying to achieve the fullness of the democratic ideal, much remains to be done to achieve the good intent of the human rights laws.

The implementation of the agrarian reform law in the country, for instance, has taken its toll of blood from some farmer-beneficiaries who assert their rights to own farm lots.

One recent example is the case of Agapito Silva, who was shot in his own house in Barangay Imok, Calauan, in the province of Laguna on February 3, 2015 by a police-military contingent.

Silva was reportedly vocal against the delays in the implementation of agrarian reform in his area that would have entitled him and his fellow farmers to farm lots they could till as their own.

Additional example is the case of Elisa Lascoña Tulid, an agrarian reform advocate who was shot dead on October 19, 2013 at Sitio Kumbenyo, Barangay Tala, San Andres, Quezon Province.

The alleged gunman was reportedly under the employ of a huge landowner whose land was the subject of land reform claims by farmer beneficiaries.

It may not also be amiss to mention the incident in barangay Tukamalipao, Mamasapano, province of Maguindanao on January 25, 2015 where some 44 Special Action Force policemen were killed by elements of the rebel Moro Islamic Liberation Force (MILF).

The victims certainly had their human rights violated. But, their assailants also claim that they had the right to defend their human rights to the sanctity of their homeland against intruders.





Image taken kittysjone.wordpress.com

Thus, the promotion and protection of human rights in this country is far from simple.

Good governance has a lot to do with the proper promotion and protection of those rights – which does not automatically follow simply from the enactment of laws on human rights.

Good men and women as government officials are needed to faithfully implement those laws.

And since we are democratic country, we choose our leaders through elections.

Thus, in the end, it is really the people who play the decisive role in the election of government officials, who will ensure the promotion and protection of human rights in this country, and I suppose, in other countries as well.

THANK YOU!