

**Professorial Lecture by Dean Melencio Sta Maria on  
HUMAN RIGHTS, POLITICS, INTERNATIONAL LAW AND TRADE  
ARRANGEMENT AND ECONOMIC PROSPERITY:  
A READING OF THE PHILIPPINE SITUATION**

Comments by: Ronald U. Mendoza, PhD,  
Dean, Ateneo School of Government

It is a pleasure and my honor to serve as a reactor to Dean Mel's Professorial Lecture. Let me first congratulate the foundation for selecting a very influential thought leader on the topic. Dean Mel has just delivered a very powerful and timely assessment on the state of human rights in the Philippines, as well as the important linkages to economic development. The latter will be the main focus of my reaction.

- 1) Let me begin by stating the obvious, but poorly understood reality of economic openness. Economic liberalization is a double-edged sword – it expands markets and improves development prospects for those countries that are able to navigate the adjustment. But it also creates winners and losers within economies, with more losers than winners in those economies that are least prepared to compete, and whose institutions are underdeveloped to take advantage of market opportunities and mitigate the vicissitudes of adjustment and liberalization itself.
- 2) Markets were never meant to remain unfettered. Markets need institutions, and that is how we economists embody the issue of rights in economic policy. In fact, trade and human rights is not a recent phenomenon. Nations have always realized the distinct tension and opportunities to integrating not just economies but also societies and institutions. Let me share a few examples from history:<sup>1</sup>
  - Early nineteenth century: England signed treaties with the U.S., Portugal, Denmark, and Sweden to ban trade in slaves.
  - Late nineteenth century: the US, England, Australia and Canada banned trade in goods made by conflict labor. These efforts stimulated international cooperation.
  - In 1919 the signatories of the Treaty of Versailles created the International Labor Organization (ILO); its members agreed that state

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<sup>1</sup> Excerpted from:

[https://www.wto.org/english/res\\_e/publications\\_e/wtr11\\_forum\\_e/wtr11\\_15feb11\\_e.htm](https://www.wto.org/english/res_e/publications_e/wtr11_forum_e/wtr11_15feb11_e.htm)

failure to protect labor rights could distort trade and undermine labor rights in other countries.

- In the 1980's and 1990's, the EU, the US, and other developed countries began to incorporate loose and non-binding human rights language in their preferential trade agreements (PTAs). However, Canada, Mexico, and the U.S. were the first countries to include explicit human rights provisions in a trade agreement. NAFTA (1993) includes labor rights in a side agreement, as well as transparency (access to information) and public participation obligations in both the body and side agreements.
- It is estimated that over 75% of the world's governments now participate in Preferential Trade Agreements (PTAs) with human rights provisions.
- But these rights elements also raise debate among economists and policymakers. Some call them "legal inflation". They argue that governments are using trade agreements to impose their values and norms with a view to globalizing their social policies or regulatory approach. Others consider that introducing human rights provisions in PTAs is simply a new form of protectionism in disguise. They stress that trade agreements are not the right place to address human rights issues.
- Whatever one's views on these, one must acknowledge that, essentially, the agreements include governance elements – and these are eventually embodied in institutions. This broad effort recognizes that trade will not be sustainable if governance and institutions are weak. If human rights provisions are designed carefully, they can focus on improving governance (the supply side) as well as empowering people to demand their rights. Indeed this is what Dean Mel acknowledged as the powerful driver of the spread of rights-underpinned agreements among nations.

3) Key economic institutions link the discussion of rights to the economics and policy sphere. Hence this is our connection between the lawyers and the economists. Institutions are critically important to the continued functioning and fairness of markets. When institutions and markets work well, rights are upheld and realized.

4) On the other hand, it is perhaps the failure of these institutions—not markets and economic liberalization per se—that is what created many of the frictions we have seen in recent years. Perhaps in a way our collective

failure to strengthen these institutions led to the rise of many of the populists we see today all over the world.

- 5) What are the key institutions that markets need? These institutions include:
- **Market creating institutions:** namely, those that enable markets to exist and function well. Examples include institutions to protect property rights and enforce rule of law, and ensure contracts are enforced.
  - **Market regulating institutions:** namely, those that deal with externalities, economies of scale, and imperfect information. Examples include regulatory agencies in telecommunications, transport, and financial services. But how many of these institutions are truly independent and not captured, in the Philippine context? Is it a wonder that they fail to serve the public good?
  - **Market stabilizing institutions:** namely, those that ensure low inflation, minimize macroeconomic volatility, and avert financial crises. Examples include central banks, exchange rate regimes, and budgetary and fiscal rules.
  - **Market legitimizing institutions:** namely, those that provide social protection and insurance, involve redistribution, and manage conflict. Examples include pension systems, unemployment insurance schemes, and other social funds. A key example in the Philippines is the Pamilyang Pantawid Program (4Ps) which seeks to protect children and the country's human capital by ensuring that the nation's young people remain in school and receive adequate nutrition and health investments.
- 6) Institutions are critically important for long run stable and inclusive growth and development. Short cuts as espoused by populists, while tempting and seductive, do not work and ultimately further undermine progress.
- 7) Management and governance of these institutions is key. Leadership and bureaucratic selection must be based on merit – yet this is perverted by extraction- and rent-seeking motivations by some bureaucrats and leaders. In the final analysis, economic development is a structural transformation of the economy and society itself. This should be guided by evidence, implemented by the technically equipped and motivated by the national public good. Institutions matter. In times of deep division, capable and visionary leadership sometimes matters more.

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8) **OPTIONAL: Building institutions:** CHR is one of many institutional reforms we built as a country in the post-Martial Law era. Key institutions that help build good governance, trust and stability in the economy:

- **Office of the Ombudsman (1989):** official critic who studies the laws, procedures and practices in government, a mobilizer who ensures that the steady flow of services is accorded the citizens, and a watchdog who looks at the general and specific performance of all government officials and employees.<sup>2</sup>
- **Philippine Competition Commission (2015):** independent quasi-judicial body created to promote and maintain market competition by regulating anti-competitive conduct. The main role of the Philippine Competition Commission is to ensure fair competition in the market for the benefit of consumers and businesses.<sup>3</sup>
- **PPP Center (2010):** main driver of the PPP Program. It serves as the central coordinating and monitoring agency for all PPP projects in the Philippines. It champions the country's PPP Program by enabling implementing agencies in all aspects of project preparation, managing of the Project Development and Monitoring Facility (PDMF), providing projects advisory and facilitation services, monitoring and empowering agencies through various capacity building activities.

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<sup>2</sup> Drawn from:

<http://www.ombudsman.gov.ph/index.php?home=1&navId=MQ=&subNavId=ODU=>

<sup>3</sup> <http://phcc.gov.ph/about-us/>

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Comments by: Dean Joan S. Largo,  
Dean, University of San Carlos School of Law and Governance

Please permit to start this brief comment with words of thanks. We thank Dean Mel for leading the intellectual discourse on human rights at a time when it is disquieting to be speaking about the concept. For just as the platform for discourse has never been as wide and pervasive, ironically, it has never been also as misleading, intolerant at times, even abrasive.

Riding in tandem with fake news are bigoted views, so that nowadays, it takes a special kind, a huge measure, of courage to go against populist views: the kind that Dean Mel exhibited this afternoon. Indeed, human rights discussion is the Philippines' version of the Al Gore's inconvenient truth.

But it is a theme that has to remain central, a discourse that has to be made daily, for authoritarian regimes germinate first in the idea of subordinating human rights for some strong arm of the law.

But what is most peculiar – and special – about Dean Mel's presentation is that he has put, front and center, the discourse on human rights from a **pragmatic** point of view. Human rights concept is being held out in instrumental terms, that is, its utility as a tool for progress. Dean Mel correlates human rights discourse in the context of economic welfare of the nation – human rights as indispensable element to preserve the socio-political stability of a country, socio-political stability being necessary to attract foreign investment, which in turn is what fuels economic growth.

When viewed in this light, human rights take on a more urgent hue. Human rights become not only an empty legalism or some beautiful rhetoric. Human rights become imperative because taking us all out from squalor of poverty *is* imperative.

We cannot profess to be concerned with the plight of the masses, and at the same time subordinate the importance of human rights. If the end goal is the upliftment of the lives of the many, human rights should just be as important as any other central goals of the government. Human rights is essential to stability of the

country, and stability is essential in attracting investments, and investments are essential to growth and development.

Thus, if we truly care for this nation, the national conversation, the government policy, should center around what it means to be human, first and foremost. And above all. #