



DEPARTMENT OF JUSTICE

*On the Occasion of the General Membership Meeting and Induction of Officers,
Kapisanan ng mga Brodkaster ng Pilipinas (KBP)*

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SPEECH

by

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Secretary

To all the members and officers of the *Kapisanan ng mga Brodkaster ng Pilipinas* (KBP), a very pleasant evening!

I would like to thank the KBP, through your Chairman, Mr. Herman Z. Basbaño, for doing me the great honor of inviting me to be a part of the General Membership meeting and induction of officers of your organization.

While I am, of course and as you well know, quite acquainted with the work performed by members of the press on a daily basis, it is not every day that I stand before members of media practitioners *en masse*, especially in an event that brings together the many individuals who play a key role in defining the role, responsibilities and standards that will shape the future of broadcast media in our country.

It is a change of pace, in a way, for I am speaking before members of the press, not as an interviewee, but as a guest speaker who only knows that she is expected to share her thoughts on virtually any topic of common interest to all of us, and who can only work with her own perspective as non-media practitioner. It is a bit of an intimidating task, but one that I can only meet with sincerity and with the assurance that we

– meaning all of you as broadcasters, and myself as a lawyer, a public servant and the Secretary of Justice – have one thing indubitably in common: our search for Truth.

I am confident in this knowledge because I have worked with one of your own before, in a search for Truth under very challenging and delicate circumstances, in relation to a matter of serious public and national interest that, handled improperly, could have resulted in our falling out with another nation. I speak, of course, of the work Chairman Basbaño and I, together with the late Secretary, Jesse M. Robredo, Atty. Roan Libarios and Ms. Teresita Ang-See almost five years ago, when we investigated the Rizal Park Hostage-Taking Incident.

It is this shared commitment to Truth that induced me to accept the invitation to be your Guest Speaker for tonight, and convinced me that I may, indeed, have views that might be of some value to all of you.

But the Truth is a tricky thing. Take Ancient Egypt for example.

Yes. I know. It's a huge leap, to say the least, but please bear with me. I will bring us back to the 21st century in a moment.

Most of what we know about Ancient Egypt and Ancient Egyptians are culled from artifacts, architecture and even written resources that have survived. We know about their system of writing, their religious beliefs, their politics, and even their methods of preserving human remains ... but, apparently, what we don't know is what they *looked like*. Even now, we cannot agree on how to define or depict their *ethnicity*.

Perhaps some of us here may have heard about the controversy, back in the early 1960s of casting Elizabeth Taylor, a quote-unquote "white woman", as the legendary Cleopatra, the African queen and now considered the last Pharaoh of Egypt. And, just last year – and this is where I bring us squarely back in the 21st century – the movie *Exodus: Gods and Kings* caused a similar controversy, which, in this age of political correctness and keen racial awareness, was decidedly more heated and more publicized than one half a century ago. The actors who played the main characters – Ramses II, Moses, who is believed to be likely Egyptian, and Joshua – were Caucasian. Reacting to those who cried "foul", media mogul Rupert Murdoch reportedly tweeted: "Since when are Egyptians not white? All I know are."¹

¹http://www.slate.com/articles/health_and_science/explainer/2014/12/ridley_scott_s_exodus_were_ancient_egyptians_white_black_or_brown.html

But, apparently, nobody really knows, at this point, whether Ancient Egyptians were, quote-unquote “black, white or brown” because there is little scientific evidence to conclude either way and, despite the written records and pieces of art that depict Egyptian people, it seems that contemporary accounts never really bothered to point out just how light or dark or perhaps even varied the skin-tone of the people who lived in those days was.

I was fascinated by this, not necessarily because I think knowing their skin color makes a difference in understanding their invaluable contribution to the rise and advancement of civilization, but because, apparently, to the Ancient Egyptians themselves, it wasn't even that important. It appears to indicate that they weren't all that concerned about race or, perhaps, they didn't even have the same concept of race as we do today.

When historians and archaeologists speak of “contemporary accounts”, they are actually referring to the equivalent of “media” of that time period.

This is what I mean about the Truth being tricky. Some “truths” are forever lost when those who have the opportunity to seek them fail to do so for one reason or another.

What is not said is just as important as is said.

In media, we place a huge stock on the principles of being “unbiased” and “impartial”. But, in truth, neither history nor media can be purely unbiased and impartial. It may be surprising for you to hear, but I think that is the way it should be. At least, I believe there should always be a bias and a partiality towards Truth. This is because failing to seek it, in matters that truly matter, and where there are no reasons that far outweigh the need for Truth, is to, instead, betray a bias towards silence, ignorance and, ultimately, oppression.

In the words of Buddha, “There are only two mistakes one can make along the road to truth; not going all the way, and not starting.”

As the movie *The Fifth Estate* put it, in words it attributed to WikiLeaks founder Julian Assange, “If you want the truth, no one is going to tell you the truth, they're going to tell you their version. So if you want the truth, you have to seek it out for yourself. In fact that's where power

lies, in your willingness to look beyond this story, any story. And as long as you keep searching, you are dangerous to them.”

And that is exactly how I would describe all of you, individually and collectively: Powerful. Dangerous.

Powerful because you shape, in a very real and immediate way, the perception and inclinations of society and people and, in so doing, you have the power to shape our future.

And that makes you dangerous for people who want to hide the Truth and hide from the Truth.

That is why those who are threatened by the Truth, those who would rather trap the people in a bubble of ignorance, and those who fear taking responsibility for the consequences of their actions, tend to lash out at those who seek the Truth.

Take for instance, the various probes we – public officials and investigative journalists alike – have undertaken in the past few years: the probe into extortion activities in the NBI several years back, corruption in the handling of the PDAF and the Malampaya Fund and, more recently, on various allegations of corruption involving a powerful political family, including the Vice President himself.

Invariably, the progress of the story is the same: allegations are made, a search for Truth is launched, the investigators are threatened, harassed and accused of wrongdoing and ill-motives, and attempts to roadblock the investigation are made – often involving court processes and remedies that were never intended to impede and obstruct Justice or to shield public servants from accountability.

Everything has become so predictable that it should be named a political trope by now.

How I wish for an unexpected twist one of these days: a public official accused of corruption who actually cooperates willingly with the investigation, instead of impeding it. Who bravely faces the music, and fights the accusations with Truth, instead of Silence and Evasion.

But, alas, those who fear the Truth will always opt to attack those who wish to exercise their freedom to seek it and to make it known.

People who are confident about their innocence will face investigations, rather than evade them. People who have something to hide... well, they hide; they evade; they hide the people who could shed light on the Truth; they lash out at the people who try to ferret out the Truth, even public servants performing their mandate and members of the media, fulfilling their purpose as the Fourth Estate; they resort to all sorts of fallacious arguments: *argumenta ad hominem, ad populum, ad ignorantiam, e silentio*, appeals to emotion, to motive, to consequences, and even to erstwhile poverty; they will do anything and everything to fight the emergence of Truth.

Attacks on freedom of expression and of the press can assume various forms. They can be blatant and outright or insidious and salient. Two current instances gave us an example of the latter. The first was the contempt case filed against me by Makati Mayor Junjun Binay with the CA. According to him, what constituted a contemptuous act was not my issuance of the legal opinion on the CA TRO, but the fact that I released it to the media and that it was published by the media. The second instance is the threat made by VP Binay on anybody among the media who will report on the bank freeze order issued by the CA in the case filed against him and his alleged dummies by the AMLC. The VPs camp contends that proceedings regarding the freeze order are covered by the confidentiality provision of the AMLC.

The general rule of course is that matters of public interest and public concern deserve to be published without any prior restraint on the liberty of the media to determine what is to be published and how it is reported. In the case of the legal opinion on the CA TRO, the issue was clearly a matter of public interest. Keeping the public in the dark as to the credibility of competing opinions on the subject would have constituted a repression of the freedom of expression. There can be no valid justification in repressing an out-of-court statement or opinion on the legal implications of a court order, unless it is shown that there is a clear and present danger on the administration of justice. Moreso, the mere reporting by the media of the contents of a legal opinion on a court order cannot be proscribed as an abuse of press freedom.

On the other hand, the threat of criminal prosecution in reporting a CA freeze order likewise delivers a chilling effect on the media, considering that the threat has no legal basis. What the AMLA prohibits is the disclosure to the media by banks and investment firms of the covered and suspicious transactions it reports to the AMLC as a matter of course. Under the AMLA, covered institutions such as banks and investment

firms are required to report to the AMLC monetary transactions, such as bank withdrawals and deposits, that exceed a certain amount, called covered transactions, and transactions that do not correspond to the usual course of business of the bank client, called suspicious transactions. In the CA freeze order case, what was publicized by media were not the bank reports to the AMLC, but the freeze order that resulted from an AMLC petition, long after the reporting by the banks of the covered and suspicious transactions was already made. The provision of the AMLA on the breach of confidentiality cannot simply be stretched in order to threaten media, and definitely not for purposes of protecting respondents accused of amassing ill-gotten wealth and other illegal activities. The law was not envisioned to protect the commission of illegal activities.

Even assuming that the source of the information published has acquired the same illegally, the fact of publication by media as an exercise of press freedom should already bring the information outside the coverage of the prohibition or illegality declared by the law. As observed by an Inquirer columnist in yesterday's issue of said newspaper, freedom of the press sometimes even outweighs provisions of law that declare certain information as illegally acquired. According to this column, citing a US Supreme Court case, free speech trumps these laws, "and media cannot be stopped from reporting truthful information of public interest, even if the information was obtained illegally by an unknown third party".² This is not even the case in the two incidents mentioned, where the information published by the media was not illegally acquired, but in fact consists of public documents on matters of public interest.

These two cases of insidious attacks on freedom of the press and the right to free expression would have been less alarming if they were somehow based on law and jurisprudence. The fact that they are not makes them alarming because it shows that the attack on the right to publish is resorted to as a matter of tactical, instead of purely legal, concern. When press freedom is attacked without any meritorious basis that there was an abuse of press freedom; we are brought back to the days of the dictatorship, and its images of padlocked newspapers and government censorship. This also gives us an insight on the future of press freedom under the administration of certain presidential candidates.

² Oscar Franklin Tan, "Jailed for Liking Binay Freeze Order on Facebook?", Philippine Daily Inquirer, May 18, 2015, citing US Bartnicki case, "where a radio station played a tape of a union president telling his chief negotiator that if their demands were not met, 'we're gonna have to go to their, their homes ... To blow off their front porches, we'll have to do some work on some of those guys.'" "The recording was made without their consent but the radio station had nothing to do with making it, and received it from a union critic who claimed a copy was left in his mailbox."

This is where I reiterate my point that it is not bad to have a bias and a partiality, if the bias and partiality is in favor of Truth as opposed to Silence.

The vilest enemy of Truth is not Lies. Lies, in the face of Truth, will out themselves.

Impenetrable Silence is the true enemy of Truth.

How can we, therefore, fight corruption, bring offenders to justice and hold our public official accountable if we are crippled from seeking the Truth? If we allow the enemies of Truth – the people who want to bury facts under the rubble of incomprehensible and twisted reasoning, faulty logic, and forced misapplication of the law – to get their way by tying our hands and gagging us?

How different and vibrant our present and our future would be if the Binays chose the Path of Truth? If, instead of impeding the probes being conducted by the Senate, the Ombudsman and the AMLC, and instead of threatening members of the media in their efforts to ferret out the Truth and report it to the public, they welcomed the chance to prove themselves innocent in those fora?

You cannot claim the truth of your innocence, yet refuse to allow evidence against you to be heard. That is to oppress the Truth, not to promote it.

As it is, it is up to us to defend ourselves and protect our mandate. Just as the Senate has finally decided to order the arrest of resource persons who refuse to attend hearings on the Binay probe in order to assert its Constitutional mandate, so should we do what is necessary to discharge our own.

I myself and as I once said before, will choose the path that I can look back on and not regret. I choose to be faithful to a worthy purpose. I choose to champion the Truth.

Just as I am defending my mandate by facing the contempt charges, you, the members of broadcast media, cannot allow yourself to be cowed by threats.

You have avoided making the first mistake on the road to truth: you have started. Now, you must avoid the second, and go all the way.

You have to remain true to your organization's motto, "Working for better radio and television for all the Filipinos today and in the future."

But bringing them the truth is only the first part. Helping them to the path of properly analyzing the facts is the next important step.

I appreciate the very extensive coverage that has been given to many important issues: the Mamasapano Incident, the progress of the Bangsamoro Basic Law draft bill in Congress, the NBP or Bilibid raid, and the Mary Jane Veloso case, for example.

But I would also urge inculcating in the Filipino people the ability to appreciate and analyze the implications of these issues on a deeper level.

I cannot help note somewhat of a disparity in the presentation of issues between English-language programs and those that are believed to be for "mass consumption". I do not know if my perception is correct, but please indulge me as I express it.

I tend to notice that English format programs tend to delve deeper into issues: analysts are invited to shed light on the various aspects of these issues, and I don't just mean those who pretend to be impartial "experts", but are actually partisan players who are actually expressing the views in favor of those with vested interests in the outcome of certain issues.

On the other hand, those perceived to be for "mass consumption" tend to be overly simplistic in the presentation of the issues, in such a manner that does not penetrate their intricacies. How many poll questions answerable by "Yes" or "No" have been launched in connection with the BBL or the Mamasapano Incident? These are complex issues that are difficult – if not unwise – to oversimplify, or to superficially probe in ways that do not increase understanding but merely reinforce people's perception. I mean, I rarely, if ever, see an English format program take a poll that begins with the phrase "Do you believe", and seeks an answer "Yes" or "No".

I invite the members of the KBP to resist the urge to, please excuse the phrase, "dumb down" the presentation of issues. I have great faith in the capability of the Filipino people to grasp serious and complex issues. More than that, I believe it is important to build on this capability for they have very important decisions they have to make for themselves.

How many times have I pondered what kind of political discourse we would be having in the Philippines if we had people like Jon Stewart and Stephen Colbert, the masters of political satire who are considered to be largely responsible for making the American youth interested in, and updated about current events and politics. It doesn't necessarily mean replicating their format, but at least some innovation that achieves the result of improving the analytical skills of their viewers: the ability to recognize double talk, hypocrisy and outright lies.

I know it is possible.

I think the media, especially all of you present here today, the powers and movers of Broadcast media and members of the KBP, have the means to help the Filipinos down that path.

And I know you have the motivation, judging by your motto.

Let us, together, champion Truth. It is an uphill battle now, especially now that there are powerful people who fear its emergence.

But the media, too, is very powerful.

And with power, it has been said, comes with great responsibility.

Your motto says it all, we are responsible for the Filipinos of today and in the future.

May you revel and excel in discharging that responsibility.

Mabuhay and more power.