



DEPARTMENT OF JUSTICE

**On the Occasion of the Induction and Testimonial Ceremony
of the IBP-La Union**

14 September 2015

**La Roca Villa Resort Hotel, Brgy. Urbiztondo,
San Juan, La Union**

KEYNOTE SPEECH

“Serving the Underprivileged Through the Legal Profession”

by

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Friends, ladies and gentlemen: Good morning!

Thank you very much for honoring me with an invitation to speak before you today. Thank you for the warm remarks.

I would like to begin by inviting all my colleagues in the profession to a moment of reflection. Now more than ever, there is a need for those of us in the practice of law to reflect on our responsibilities not only to our clients but also to society. The way we perceive these responsibilities is of course different for every lawyer. The way we fulfill them also changes from person to person.

I was asked to talk about how we as lawyers can serve the underprivileged as members of the legal profession. This is a very timely topic, and one that I feel very strongly about.

In order to cope with our line of work, there is great temptation to become robots. To not have feelings. To be desensitized. To work on a fixed schedule and use tried and tested methods. To just work mechanically and efficiently in order to achieve a pre-determined goal. To act like legal technicians who merely use rules to accomplish what our clients require.

But that's not enough. That's not the kind of lawyers we are expected to be.

For my part, I cannot forget the people whom I serve. And the underprivileged occupy a large part of my thoughts.

So today I want to share with you the simple two-part strategy that I use as my daily compass and which I think members of the legal profession might find to be useful guidance.

The **first way** that lawyers can serve the underprivileged is simple: **Learn to care.**

History gives us two conceptions of legal practice. From the pandects and advocates of ancient Rome we inherited the idea of law as a way of moving within the existing social order; while from the medieval canonists we received the conception of law as a way of reforming the existing order into something better, as Professor Harold Berman so tellingly pointed out.

These two conceptions are meant to be complementary tasks of every legal practitioner. Unfortunately, our experience in law school and the legal profession often dilutes our commitment to social justice lawyering. It is so much easier to engage in what is deemed "traditional law practice". And more often than not, social justice lawyering is treated as an "alternative law practice"—done by the eccentrics, the altruists, and the bleeding hearts from among our ranks.

For example, most of the new graduates usually jockey for associate positions in prestigious law firms. As a preparation for law practice, law firms are the best venues for a teacher-protégé relationship where the new lawyer is more like a law intern that has to learn the ropes from more seasoned senior lawyers. The same intensity of tutelage, however, is not usually found in government lawyering, which is normally the second choice of most new lawyers. Of course, new lawyers are still sufficiently trained in the legal offices of the government, and depending on the kind of government office, a new lawyer might actually get that kind of training that is comparable to the training one gets from the big law offices.

Third of course is the alternative legal service, which usually involves being taken in by a non-government organization that serves a general or specific underprivileged clientele depending on its social cause. As such, we have alternative law groups that focus on lawyering for peasants and farmers, workers, fisherfolks, indigenous peoples, the environment, and other social minority groups that are usually the underprivileged and underrepresented in society. **This is the only career path for lawyers which deliberately and intentionally imbibes a consciousness that focuses on equal access to justice.** Unfortunately, it is also by far the road least taken by new lawyers because admittedly, the foremost reason for taking up law in order to become a lawyer is the financial security that the profession is often thought to automatically provide. Of course this is not always true. Nevertheless, because of the myth that becoming a lawyer is the easy way to get rich, most take up the first option, that is, private law practice, rather than the second or third, that is, public service lawyering, whether in government or in NGOs.

Of course not a lot of lawyers actually relish the idea of getting paid their appearance fees in chickens or baskets of fruits or bushels of vegetables. We know that in those occasions where we lawyer for indigents or the underprivileged, usually they pay us what they can only afford to give. ***Ilan na ba sa inyo ang nabayaran na ng appearance fee na manok o kaya bigas? Swerte ka kung lupa ang ibayad sa iyo ng farmer.*** Usually, what they give is all they have. In a sense, when they pay you in chickens and vegetables, **what you were paid is actually the most expensive appearance fee you will ever get, because the indigent's payment represents all that he can afford, and he is thanking you with all that he's got in his life.**

As a result of our traditional career path in the legal profession, our justice system has become largely inaccessible and irrelevant to the underprivileged. Those who receive their "day in court" do not always feel that "justice has been done," and with reason. Money often matters more than merits. Substantive rights and procedural obstacles can be skewed, and even those who win in court can lose in life, given post-judgment power relations. Unfortunately, these difficulties are seldom acknowledged in the discussions relating to access to justice.

How often are courtroom deals usually swept under the rug, never to be talked about except in hushed tones and silent whispers? Unfortunately, our profession has informally adopted its own kind of *omerta* code, or code of silence. In order to prosper in the business, it is best not to rock the boat. How many times have I received complaints regarding corrupt public prosecutors, from private litigators unwilling to file formal complaints for fear that the personalities involved will get

back at them? A lot I might say, but the hesitation of these same private practitioners to put these corrupt prosecutors and officials in the spotlight does not speak well of this tradition of "speak no evil" that we have imbibed through the years.

This mentality has given rise to a new field of specialization in law which we jokingly call **IP Practice**. **How many of you have already heard of this field of specialization in the practice of law?** No it is not Intellectual Property practice. Neither is it Indigenous Peoples rights practice. IP is short for influence-peddling. How many lawyers have I encountered who have said "*Madam hindi na kasi ako lawyer. Sa totoo lang nakalimutan ko na kung paano ang mag-practice ng law. Negosyante na po kasi ako.*" Of course we know what kind of business they are engaged in in the legal profession: **the monkey business kind.**

But is there hope in us? Is there hope to transcend this way of conducting the business of the legal profession, away from the code of omerta and IP practice? Can we hack it when we know that the practice goes all the way up to the higher courts of the land, even beyond the Regional Trial Courts? There could only be so much corrupt judges as there would be lawyers only too willing to corrupt them. It is a perverse symbiotic relationship that must be rooted out from our system of justice if equal protection of the laws and equal access to justice is to be realized for the benefit of the poor and the underprivileged of our society.

I thus challenge you to swim against the tide and realize that to serve the underprivileged is both our highest duty and our most exalted privilege. For the initiative to extend valuable legal assistance to the underprivileged is crucial, timely and reflects the highest ideals and purest values we believe in as Filipinos.

I want us to make a candid confrontation of our failures: our unwillingness as a society to take equal justice seriously at a conceptual, doctrinal, political, or professional level. I want us to challenge the status quo and do better. I want us to explore the outlines of what a serious commitment to equal justice would entail and some strategies for pushing us in that direction.

I especially invite you to help breathe life into the ideal of "equal access to justice". The courts, the bar, law schools, legal aid providers, and community organizations must work together to develop comprehensive and coordinated systems for the delivery of legal services. Those who need, but cannot realistically afford, lawyers should have reasonable opportunities for competent services.

This is where we must learn to care. Only in this manner can we make justice accessible to the Lumads of Mindanao, who are now presently caught in the middle of a conflict between opposing political and economic interests involving armed groups that have already inflicted death and injury on these people. Only in this manner can we listen to the story of farmers and peasants who continue to be harassed by landowners and politicians defiant of land reform and land distribution, to the point of filing bogus criminal cases against their leaders. Only in this manner can we file the proper legal actions for the workers of Kentex, who died where they worked because workers safety standards and regulations were not followed by cost-cutting businessmen. Only in this manner can we protect informal settlers from professional squatters, land grabbers, and illegal demolitions within the bounds of the law.

By listening, we give their stories the opportunity to be told, their cries for justice heard in the chambers of our Halls of Justice, and in so doing we help them become visible again to our society, because once they were invisible.

We must be aware of the shortcomings in the status quo and take whatever steps are necessary within our own spheres of influence to ensure that there is a frank and honest discussion of these problems followed by concrete action.

The **second way** members of the legal profession can help the underprivileged is this: **Be willing to serve.**

Let me tell you my story.

As some of you may know, I began my career in government in the Supreme Court, as part of the legal staff of Associate Justice Isagani A. Cruz. I moved on to work for the House of Representative Electoral Tribunal as the Clerk of the Tribunal or Tribunal Secretary. Eventually, and quite unexpectedly, I ended up as the Chairperson of the Commission on Human Rights.

In another unexpected stroke of fate, President Aquino appointed me Secretary of Justice.

It was at that point in time that I took a hard look at myself and at what I thought I had accomplished as a lawyer. Ultimately, I asked myself what it would mean to serve as the Secretary of Justice.

I'll tell you now my realizations back then: Being Secretary of Justice would mean the opportunity to right wrongs in individual cases, and to put in place a compassionate and humane administration of

justice. Being Secretary of Justice would mean having a unique platform to support reform efforts, address the inequities in the justice system, and help shape a more responsive and dynamic agency. And being Secretary of Justice would mean access to people and networks that could serve as partners in progress and with whom I could coordinate more effective action.

And so, with those realizations, I accepted the President's appointment. And in appointing me, President Aquino gave me clear marching orders: I was to begin the process of providing true and complete justice for all.

I believe whole-heartedly in this goal. I have been doing my level best to ensure that I am doing everything I can to make this a reality. It has not always been easy. Most of the times I find myself in confrontation with powerful and influential individuals, organizations, interest groups, or corporations who also do their level best to employ the most renowned and experienced lawyers to defend their interests, which is only as it should be in any legal system. But what is important is that they must do this without employing money or influence. **They must do this in a level playing field.**

What I have done in my stint as Secretary of Justice **is to make sure in every case that there is a level playing field.** I make sure that the rules are not skewed in favor of the powerful to the detriment of the marginalized and powerless. This is how we proceeded with the Napoles scandal and the filing of the PDAF cases. This is how we handled the investigation and eventual prosecution of abusive PNP and AFP officials. This is how we succeeded in assuring victims of crimes that they can rely on the Department of Justice no matter how powerful and influential the alleged offenders are.

This is how we achieved small steps, by providing a level playing field, **without fear or favor.** To paraphrase the favorite legal maxim of the feisty Haydee Yorac: ***by letting justice get done though the mighty in the heavens fall.***

My moral compass was simple and unequivocal. In order to do justice to all, I must simply do my job the way it is supposed to be done. We have been bogged down by so much corruption in the past, that simply doing one's job becomes an achievement in itself. Being Secretary of Justice is difficult, only in so far as the corruption of our legal system by the powerful, wealthy and influential makes it difficult for lawyers to remain decent and noble. Without the pressure on decency, without the challenge to our nobility, the delivery of justice in this country will run like a well-oiled machine. But then again, I console myself with the thought: what is life without pressure and challenges?

In the end, I want to remind you all that the fight for true and complete justice transcends all divides. This is a fight in which everyone must get involved—whether we belong to the public or private sector, whether we are rich or poor, whether we are currently involved in a legal dispute or not—because the reformation of the Philippine Justice System is a shared responsibility.

This is where you come in and where you can serve the underprivileged.

We have a society with good laws that are unfortunately not felt by many of our people. We have a justice system that can be made more efficient and responsive. To heal what ails our society and its laws, we need lawyers to fight the good fight; to make choices that serve the greater good.

I would like to conclude by revisiting the last lines in a poem penned by Robert Frost:

*“Two roads diverged in a wood, and I—
I took the one less traveled by,
And that has made all the difference.”*

Let Frost’s words be a reminder that as lawyers we always have choices. We have the power to define ourselves and determine the legacy that we leave behind. Whether or not the choices we make are unpopular with others or unprofitable to ourselves should be irrelevant, as long as we are guided by our conscience and our morals.

Let us learn to care. Let us be willing to serve. This way, as lawyers and as human beings, we will make a difference.

Maraming salamat po!