

Republic of the Philippines
COMMISSION ON HUMAN RIGHTS
Quezon City

IN THE MATTER OF:

**Letter-Complaint against Davao City
Mayor Rodrigo Roa Duterte for
Violations of Republic Act No. 9710,
otherwise known as the “Magna Carta
of Women”**

Case No. 2016-078

X ----- X

**COMMENT
to Respondent’s Motion for Reconsideration**

WE, the undersigned **COMPLAINANTS**, unto this Honorable Commission, respectfully manifest that its Resolution dated May 20, 2016 on the above-entitled case does not warrant any reconsideration for it is based on facts, evidence, pertinent laws and jurisprudence. Respondent’s Motion for Reconsideration dated June 9, 2016, therefore, is bereft of any argument that would necessitate the grant of said Motion.

Nevertheless, WE submit this COMMENT to correct the Respondent’s wrongful allegations and accusations directed towards us and countless victim-survivors of gender-based violence. Most importantly, it is geared to inform the Respondent and the public on the issue of discrimination against women, violence against women and other gender-based violence, and the Magna Carta of Women Act, which was the basis of our Letter-Complaint.

To accuse us of being in convergence with supporters of other Presidential candidates and that the purpose of the filing of the Letter-Complaint was nothing but a part of the “common design” against the Respondent is an AFFRONT TO WOMEN’S RIGHTS ADVOCATES like us AND THE BROADER SOCIAL MOVEMENT WHO WORKED AND FOUGHT SO HARD FOR THE RECOGNITION, PROTECTION AND FULFILLMENT OF HUMAN RIGHTS.

1. Our engagements, both nationally and internationally, brought about the passage of policies that would ensure the non-discrimination of women and put an end to violence against women. We are part of a movement that advocated for the adaption of the UN CEDAW, the Beijing Platform of Action, and the domestic translation of the Philippines’ commitments under these international instruments, such as the Magna Carta of Women Act. On the ground, we have initiated projects in the communities to break the stereotyping and marginalization of women, at the same time, giving assistance to victim-survivors of violence against women. Our track record confirms our integrity and commitment as human rights’ advocates:

1.a. **Jean Enriquez** has been an activist against the Marcos dictatorship from the age of 13 years old. During the past two decades, her work has focused on international women's issues and movements. Currently, she is the Executive Director of the Coalition Against Trafficking in Women – Asia Pacific (CATW-AP), and the Philippine Coordinator of the World March of Women. Enriquez's expertise ranges from issues of sexual violence, reproductive rights, women's political participation, and feminist critique of neoliberal globalisation and militarism. Her work around these issues has reached at least thirty-three countries.

In the Philippines, Enriquez participated in drafting the anti-trafficking bill in Congress, among others. She is a radio broadcaster for DZRH's Aksyon Kababaihan. She was recognized as one of the Ten Women of the World for 2007 by Marie Claire Magazine, one of the Ten Outstanding Women in the Nations Service (TOWNS) for 2010, and as one of the Seven Modern-Day Heroes by Yahoo! Philippines in 2011, among others.

1.b. **Ana Maria Nemenzo** is a socio-political activist and feminist who pioneered the advocacy for women's reproductive rights in the country. She founded WomenHealth Philippines, an organization which promotes women's rights to reproductive self-determination, health and development. She tirelessly worked for the passage of the Anti-Rape Law, the Anti-Violence Against Women and their Children Act, the Magna Carta of Women, and the Reproductive Health Law, among others. In 1999, she was elected as the first Commissioner for the Women Sector of the National Anti-Poverty Commission (NAPC). She continues to monitor the implementation of international agreements on gender equality and women empowerment, reproductive health rights, and social development through her involvement in bodies such as the Multi-Sectoral Committee on International Human Development Commitments of the NEDA.

Nemenzo is a member of the International Committee of the World march of Women, a global movement against neoliberal capitalism, militarism, violence against women, and fundamentalism towards women's liberation.

1.c. **Jennifer Auria C. Albano** is a development professional in the Philippines and in Asia. She has over thirty-two years of experience in social movements and in organizational development and management. Her work includes research on local policies and democratisation and local economic development, development of social technologies for participatory local governance and sustainable and inclusive community development, women's participation in politics and governance, and social movements of women and the basic sectors, especially the trade union movement. She is currently the Executive Director of the Labor Education and Research Network.

1.d. **Josua Mata** has been a trade unionist for over twenty-five years. He is the Secretary-General of the 100,000-strong Sentro ng Nagkakaisa at Progresibong Manggagawa (SENTRO). He concurrently is a member of the Board of Trustees of LEARN, a workers' education association established by trade unions.

Mata's previous engagement include being the Secretary-General of the Alliance of Progressive Labor (APL), the Deputy Secretary-General of the National Union of

Workers in Hotel, Restaurant and Allied Industries (NUWHRAIN), and an organizer-educator for the national union since 1989. His expertise in neo-liberal globalisation, anti-WTO campaigns, social movement unionism, and comprehensive trade union issues has reached at least twenty countries.

1.e. **Elizabeth Yang** is the National Coordinator of PILIPINA (Ang Kilusan ng kababaihang Pilipino), known in the Philippine women's movement as the first contemporary women's organization that articulated a socialist feminist thrust. Since its establishment in 1980, PILIPINA established its niche in legislative advocacy, taking the lead role in pushing for the gender equality clause in the 1987 Philippine Constitution. Over the years, it worked for the passage of the Anti-Sexual Harassment Act and the Magna Carta of Women, among others.

Yang is involved in the organizing and capacity-building of women leaders from grassroots communities in engaging local and national public decision-making bodies, and designing training modules to enhance women's capacities in public leadership and policy advocacy. She serves as a consultant on GAD and CSO participation in the NAPC.

1. f. **Edna Aquino** is one of the pioneers of Amnesty International's work on violence against women, women's human rights and LGBT RIGHT. She originated and spearheaded two public petitions against the sexual commodification of women in Bench fashion show and on the "twerking" incident during the launch of the Liberal Party campaign in Southern Tagalog.

Aquino has extensive experience in monitoring and documenting human rights violations using international human rights standards and in developing advocacy and capacity-building strategies for community-based groups. She is currently involved in capacity-building of women's organizations and supporting advocacy initiatives in countries where the use of cultural and religious justifications on gender-based violence is pervasive. She also established the first comprehensive financial education and economic empowerment of women migrant workers in Hong Kong.

1. g. **Judith Pasimio** is a feminist, and women human rights activist. She has worked with indigenous peoples for more than 2 decades, in different platforms – as staff and then Executive Director of Legal Rights and Natural Resources Center (LRC-KsK/Friends of the Earth-Phils.), as well as program coordinator of Rural and Indigenous Women with the regional organization of Asia Pacific Forum on Women, Law and Development (APWLD) based in Thailand. She has founded with fellow indigenous peoples' rights activists, and is currently the National Coordinator of LILAK (Purple Action for Indigenous Women's Rights).

2. Most of these movements have been around in the Philippines far longer than Respondent's tenure in government. We take it as an insult to narrow down the issue we brought before the Honorable Commission as nothing but a campaign against the Respondent's candidacy. As advocates for women's rights for

decades, we are duty-bound to ensure that the laws women have so tirelessly fought for are being respected and complied with by all.

The surrounding political atmosphere during the filing of the Letter-Complaint being asked by the Respondent to be considered by the Honorable Commission is the same political atmosphere when the acts of discrimination and violence against women were committed by him.

3. Laws apply to all persons and at all times. Regardless of the political atmosphere, the Honorable Commission should base its Resolution on the acts committed by the Respondent, the evidence, and the law that was violated, which the Honorable Commission rightfully did. No one instigated the Respondent to commit acts of discrimination and violence other than his own political ambition. It was voluntary on the Respondent's part. He did those acts to, at the very least, get the crowd's attention and interest in his political sorties.
4. Granting that we consider the political atmosphere where political candidates would do everything just to lure the electorate to choose them, their acts and political strategies should never be done at the expense of the vulnerable and marginalized members of the society, in this case, women.

Being an elected local chief executive of Davao City, which takes pride in adapting policies that advances women's rights, aggravates the commission of the acts of discrimination and violence against women committed by the Respondent.

5. Respondent's MR (Items 7 and 8) enumerated "pro-women legislations, projects and initiatives" as well as recognition and awards given to Davao City for its "gender practices" by reason of the respondent's initiatives. A number of our organizations and partner organizations work in Davao City and participate in the advocacies for these local policies and services mentioned in the Comment. We acknowledge that these policies and services advance women's rights.
6. It is therefore more disturbing that the same person claiming to be advancing women's rights would commit acts of discrimination and violence against women. It's either that the Respondent has not really understood the programs he claims to be advocating, or that the Respondent felt that he is excused from compliance therewith due to his political position.
7. Moreover, the influence that the Respondent has to the public, which the MR (Item 10) mentioned to be "16,601,997 of the electorate" should toughen, and not weaken, the case at bar because he is expected to treat every person with respect and dignity, especially the vulnerable members of the society. An elected public official nonetheless, the Respondent should not, in any way, fall short of this mandate. With all due respect to Honorable Pimentel-Gana, we cannot give the Respondent the "benefit of the doubt" you gave him.

To assert that "no one was hurt and no one could have suffered in any way" because of the Respondent's commission of acts of discrimination

and violence against women is knee-jerk and callous to the plight of victim-survivors.

8. The Investigation Report dated May 5, 2016, quoted by the Resolution of the Honorable Commission dated May 20, 2016, states:

“XXX

Interviews with complainant provided concrete accounts of how the statement/“rape joke” of [Mayor] Duterte, and his prior and subsequent actions affected them personally as well as organizationally. **These accounts show how they are disproportionately affected by the statement, how they are harmed and how such statement affects as well as the rights of other women, especially women who are victim-survivors of rape.** The interviews also highlight the effect of [Mayor] Duterte’s statement and behavior on the perpetuation of a culture of rape, the silencing of rape victim-survivors, and the entrenchment of patriarchy, hyper-masculinity, misogyny and the objectification of women. For most of the complainants and persons interviewed, the acts and statements of [Mayor] Duterte constitute as a setback to all the achievements and efforts towards gender equality and the struggle for women’s human rights.

XXX”¹

9. The Honorable Commission correctly concluded that; “The snide remarks of Mayor Duterte caused harm on the part of victim-survivors of rape. Their experiences, hurtful and shameful, were opened anew by the remarks of Mayor Duterte.”²

The Honorable Commission’s Resolution was reached pursuant to its duty as the Gender and Development Ombud, and in compliance with procedural due process.

10. The Honorable Commission has designated the Focal Commissioner for Women and Gender Concerns to conduct investigation. Following procedural due process, the Commissioner sent a copy of the Letter-Complaint to the Respondent, to which he filed his Letter-Reply.³ What followed suit is a thorough investigation for which the Honorable Commission “collected affidavits and sworn statements, considered reports, videos submitted to the Commission, and conducted interviews⁴”. These interviews included officials from Davao City.
11. Therefore, contrary to Respondent’s claim, the Investigation Report submitted by the designated Focal Commissioner on May 5, 2016, and used as the basis for the Honorable Commission’s Resolution dated May 20, 2016, has complied with due process mandated under The Omnibus Rules of Procedure of the Commission on Human Rights.

¹ Page 9, paragraph 4.

² Page 17 of CHR Resolution in Case No. 2016-078 dated May 20, 2016.

³ Page 5 of CHR Resolution in Case No. 2016-078 dated May 20, 2016.

⁴ Page 7 of CHR Resolution in Case No. 2016-078 dated May 20, 2016.

The Honorable Commission correctly found the Respondent to have committed acts of discrimination and violence against women in violation of the Magna Carta of Women Act.

12. The respondent asserts that the “rape joke” subject of the case at bar “was a narration and not a joke; he wasn’t even smiling when he said the same⁵”. Such is an obtuse excuse.
13. The Respondent engaged in what experts call **DISPARAGEMENT HUMOR** – one that “denigrates, belittles, or maligns an individual or social group”⁶. A sexist humor such as that delivered by the Respondent in his campaign sortie is a type of disparagement humor.
14. The effect of disparagement humor is alarming, to wit:

“XXX

Humor theorists have argued that disparagement humor has negative consequences at both the individual or psychological level and the macrosociological level. At the individual level, disparagement humor is thought to create and reinforce negative stereotypes and prejudice toward the targeted group. XXX

By reinforcing negative stereotypes and prejudice at the individual level, disparagement humor is thought to maintain cultural or societal prejudice at the macrosociological level.

XXX”⁷

15. The Respondent, therefore, by delivering the “rape joke”, has committed discrimination against women defined⁸ and prohibited⁹ by the Magna Carta of Women. By using a rape incident of a woman as the subject of a humor is a form of gender-based distinction, exclusion, or restriction which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women of human rights and fundamental freedoms, such as the freedom from violence, fear, and insecurity.
16. Moreover, the Respondent’s disparagement humor has added, if not reinforced, gender stereotypes and discrimination, which we, as a social movement, worked so hard to correct and end. As one study points out:

“XXX

⁵ No. 28 (page 10) of Respondent’s Comment dated June 9, 2016.

⁶ Page 79 of Ford and Ferguson (2004) ‘Social Consequences of Disparagement Humor: A Prejudiced Norm Theory’, *Personality and Social Psychology Review* 8(1): 79-94.

⁷ Pages 79-80 of Ford and Ferguson (2004) ‘Social Consequences of Disparagement Humor: A Prejudiced Norm Theory’, *Personality and Social Psychology Review* 8(1): 79-94.

⁸ Section 4(b).

⁹ Section 35.

A growing body of research demonstrates that sexist humor is not just a benign amusement; it is an expression of sexism that encourages subtle and blatantly sexist responses toward women. By communicating derision of women in a light-hearted manner, sexist humor expands the bounds of appropriate conduct, creating a norm of tolerance of discrimination against women in the immediate social context. And in that context, sexist people feel freer to express their antagonism toward women.

XXX”¹⁰

17. The effect of Respondent’s disparagement humor to some of the complainants and interviewees as contained in the Investigation Report and contained in this Comment (No. 8) clearly constitutes acts of “violence against women¹¹” under the Magna Carta of Women Act because it resulted in psychological harm or suffering.

Respondent’s assertion that he lacked the intent to cause discrimination and violence against women is beside the point.

18. The Honorable Commission correctly resolved that intent is immaterial in special laws, such as the Magna Carta of Women. “XXX Mayor Duterte, in uttering those words, albeit without intent to cause harm, committed an act which went against the security and physical integrity of women XXX.”¹²

19. In gender-based violence, the determination whether or not the act offends does not rest on the intention of the actor but on the effect of the act on the recipient.

The other acts complained of in the Letter-Complaint constitute violence against women, and objectifies women.

20. We again reiterate that as to the Respondent’s narration of “lifting the blanket of a sleeping female helper without the latter’s knowledge and consent”, the Respondent used an abusive conduct towards women as a disparagement humor in his campaign sortie. Such is an act of violence against women.

21. As regards the act of kissing female supporters without their consent in Respondent’s campaign sorties, again, we would like to remind the Respondent that violence against women is a public offense. It is not only the persons to which the act was directed that may be offended or aggrieved. When an act infringes upon women’s rights, anyone may bring an action to seek redress.

¹⁰ Mallett, et al., (2016) ‘What Did He Mean by that? Humor Decreases Attributions of Sexism and Confrontation of Sexist Jokes,’ *Article in Sex Roles* <https://www.researchgate.net/publication/297742295>, last accessed 25 June 2016.

¹¹ Section 4(k)

¹² Page 14 of CHR Resolution in Case No. 2016-078 dated May 20, 2016.

In making his arguments, Respondent hurdled from assailing his freedom of speech to claiming lack of intent to proclaiming Davao City's program and policies on women's rights to accusing that the case at bar is but a black propaganda against his political ambition.

The case is actually simple. The Respondent has committed acts of discrimination and violence against women under the Magna Carta of Women Act. For that, the Respondent has to be sanctioned.

WHEREFORE, premises considered, Respondent's Motion for Reconsideration must be DENIED.

27 June 2016, Quezon City, Philippines.

JEAN ENRIQUEZ
CATW-AP
ID No. _____
Issued On: _____
Expires On: _____

JUDY PASIMIO
Katutubong Lilak
ID No. _____
Issued On: _____
Expires On: _____

ANA MARIA NEMENZO
WomanHealth Philippines
ID No. _____
Issued On: _____
Expires On: _____

MYRNA JIMENEZ
SARILAYA
ID No. _____
Issued On: _____
Expires On: _____

SEVERINO GALINDO
Sagip-Ilog Pilipinas
ID No. _____
Issued On: _____
Expires On: _____

JOSUA MATA
SENTRO
ID No. _____
Issued On: _____
Expires On: _____

ELIZABETH U. YANG
PILIPINA
ID No. _____
Issued On: _____
Expires On: _____

EXPLANATION
(Re: Service by Registered Mail)

Pursuant to Section 11, Rule 13 of the 1997 Rules of Civil Procedure, representative of the complainants respectfully manifests that copies of the foregoing ***Comment to Respondent's Motion for Reconsideration*** were served on the other parties by registered mail in lieu of personal service due to lack of messengerial service.

The registry receipts evidencing the mailing of copies of said ***Comment to Respondent's Motion for Reconsideration*** are attached.

JEAN ENRIQUEZ

Copy Furnished:

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Davao City
Office of the City Mayor
City Hall Building
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