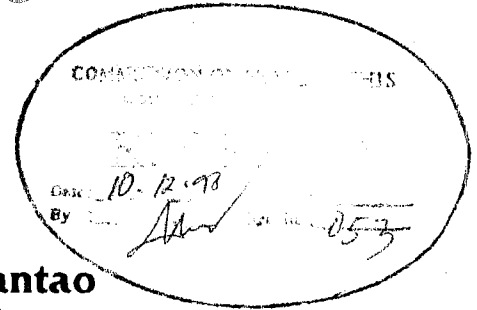




Republika ng Pilipinas
Komisyon ng Karapatang Pantao
(Commission on Human Rights)



POSITION PAPER

ON

HOUSE BILL NO. 1505

"AN ACT PROHIBITING THE PUBLIC DISPLAY OF PERSONS ARRESTED, ACCUSED, OR UNDER CUSTODIAL INVESTIGATION IN A DEGRADING MANNER, AND AMENDING FOR SUCH PURPOSE REPUBLIC ACT NO. 7438, ENTITLED AN ACT DEFINING CERTAIN RIGHTS OF PERSONS ARRESTED, DETAINED OR UNDER CUSTODIAL INVESTIGATION AS WELL AS THE DUTIES OF THE ARRESTING, DETAINING AND INVESTIGATING OFFICERS AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF"

The Commission on Human Rights (CHR) endorses the enactment of the bill introduced by Congressman Gilberto Teodoro, Jr. of Tarlac prohibiting and penalizing display of persons arrested or under custodial investigation. This bill would give further flesh and meaning to the constitutional presumption of innocence enshrined in our Bill of Rights and the right to remain silent vis-à-vis privilege against self-incrimination.

The practice of the police and other enforcement agencies in parading suspected criminals in handcuffs with cardboard placards announcing their names and alleged crimes or in any manner causing

degradation, humiliation, dishonor, discredit, ridicule, or contempt should be prohibited and should be punished. The practice is offensive to the dignity of the suspects specially when they are exposed through TV cameras and their pictures published. Republic Act No. 7438 was precisely enacted to protect the rights of persons arrested, detained or under custodial investigation pursuant to the constitutional principles of presumption of innocence of persons accused of criminal offenses.

Art. 10, paragraph 1 of the International Covenant on Human Rights reads: *"All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person"*. The practice sought to be prohibited, violates the criminal law principle of presumption of innocence as stated in Art. 14, par. 2 of the International Covenant on Civil and Political Rights and Article III, par. 14(1) of the Philippine Constitution. The mere arrest of the suspects of a crime enjoy more the presumption of innocence as they have not yet been subjected to preliminary investigation by the prosecutor. Their exposures and display to the public in TV and the media nullifies the principle of presumption of innocence. It also affects the families of the suspects.

The very fact of custodial interrogation exacts a heavy toll on the liberty of individuals and thrives on their weakness. Hence, the government must give due accord to the dignity and integrity of its citizens. The inviolability of human rights should be maintained. Our accusatory system of criminal justice demands that the government seeking to punish an individual should rely on the strength of the evidence against the accused and not on the weakness of the latter's defense.

There is indeed a need to define the duties of arresting, detaining and investigation officers and to safeguard the rights of arrested and detained persons, provide penalties for violations thereof.


This position is not intended to hamper the function of police officers in solving crimes.


While crimes must be stopped, the procedure to bring criminals to justice must be in accordance with the constitutional due process and to preserve the dignity of human person.

The immediate passage of House Bill no. 1505 is respectfully recommended.

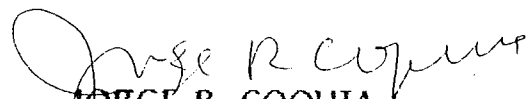
Quezon City, 24 September 1998.


AURORA P. NAVARRETE-RECIÑA
Chairperson


NASSER A. MAROHOMSALIC
Commissioner


MERCEDES V. CONTRERAS
Commissioner


VICENTE P. SIBULO
Commissioner


JORGE R. COQUIA
Commissioner

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COMMISSION ON HUMAN RIGHTS'
POSITION PAPER
ON
PROPOSED AMNESTY TO
REBELS & GOVT. FORCES

The Commission on Human Rights supports the proposed conditional amnesty to all secessionists, rightist and leftist rebels insofar as the said amnesty involves political offenses and not common crimes. The Commission does not interpose any objection to the proposed conditional amnesty so long as the crimes to be covered by the amnesty proclamation are committed in pursuit of rebellion or any political belief. The reason for this is to forestall any legal or constitutional objection to the grant of the proposed amnesty because if the same would cover non-political offenses, it will no longer be an amnesty. Amnesty commonly denotes the "general pardon to rebels for their treason and other high political offenses, or the forgiveness which one sovereign grants to the subjects of another, who have offended by some breach of the law of nations." (I Bish. CrL. Section 898). The term "amnesty" belongs to international law, and is applied to rebellions which by their magnitude are properly within international law xxx (Bouvier, "Amnesty"). For the government to include in the amnesty, offenses which have arisen out of internal political feuds and dissensions among the Filipinos themselves, such as the ordinary crimes of murder, robbery, rape, arson and other common crimes would transform the concept of amnesty to an ordinary pardon which are different in concept and legal effects. It is therefore the position of the Commission that the convicted killers of the late Senator Benigno Aquino, Jr. are not and should not be entitled to avail of the proposed amnesty as the crime committed by them was devoid of any political character nor was the killing characterized by any

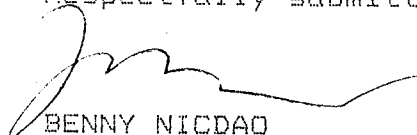
political motive; neither did it arise out of a political belief. On the contrary, the killing of Senator Aquino was committed for purely personal motives. It is therefore, suggested that the proposed Amnesty Commission to be created by a Presidential Proclamation should examine the facts and circumstances surrounding each case in order to determine who among those against whom charges have been filed before the courts of the Philippines, come within the terms of the Amnesty and if necessary to conduct summary hearings of witnesses both for the complainant and the accused. The proposed Amnesty Commission must decide each case and upon finding that it falls within the terms of the amnesty proclamation, to declare the same effective. Further, the Commission must lay down reasonable terms and conditions in the amnesty which would be acceptable to all applicant rebels.

As regards the possible inclusion of the killers of US Col. James Rowe in the amnesty grant, it is the position of the Commission that the crime of murder committed by them was politically motivated and therefore must be included in the amnesty proclamation. While the Commission realizes the political repercussion of such a move, it is still within the constitutional prerogative of the President whether or not to grant the said amnesty as this is an internal matter or affair which must be resolved solely by the Philippine government. Such a move would obviate any constitutional objection assuming there is a denial of an amnesty to the Rowe killers based on a violation of equal protection clause of the Constitution.

The grant of conditional amnesty to all rebels would demonstrate the sincerity of the government to reconcile with all the rebel forces which would pave the way for political stability, peace, unity and progress among the Filipino people. Finally, it

is the position of the Commission that government functionaries and soldiers who committed ordinary crimes or human rights violations should not be entitled to avail of the Amnesty program of the government as they are not rebels but government forces and the offenses committed by them would partake of the nature of ordinary crimes and therefore would be beyond the ambit of amnesty as the same denotes the general pardon to rebels and not to government forces.

Respectfully submitted:

A handwritten signature in dark ink, appearing to be 'Benny Nicdao', written in a cursive style with a long horizontal stroke at the end.

BENNY NICDAO

Noted by:

PAULYNN FAREDES SICAM
Commissioner