

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

POSITION PAPER

ON

HOUSE BILL NO. 8010

Entitled

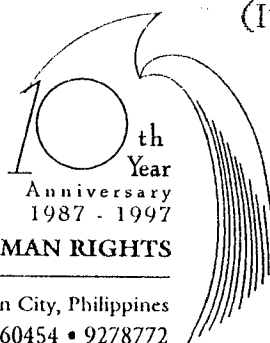
**"AN ACT AMENDING ARTICLE 176 OF EXECUTIVE ORDER NO.  
209 OTHERWISE KNOWN AS THE FAMILY CODE OF THE  
PHILIPPINES"**

Introduced by the Honorable Jose Mari Gonzales

House Bill No. 8010 introduced by Congressman Jose Mari Gonzales seeks to amend Article 176 of the Family Code allowing illegitimate children to use the surname of their father subject to conditions. Article 176 of Family Code (Executive Order No. 209) reads:

*"Illegitimate children shall use the  
surname and shall be under the parental  
authority of their mother."*

(Italics Supplied)



*Jose Mari Gonzales*

Dedicated PROTECTION and PROMOTION of HUMAN RIGHTS

in the midst of GLOBALIZATION

The said provision was taken from Article 287 of the Civil Code and in turn from the Article 139 of the Spanish Civil Code.

This provision is obviously disadvantageous to an illegitimate child as well as his or her mother. The said provision follows the old tradition of Spanish Law and other Civil Law countries where fathers of illegitimate children usually hide their identity to shirk from their responsibility even if they are the true fathers. The result is that the illegitimate children are compelled to take the surname of their mother even if everybody knows who their fathers are. The Spanish practice is still carried in the Philippines. It is still common in the Philippines that the master or head of the house usually begets a child with the housemaid or children of their farm tenants. To save the reputation of the family, the law allows that the father should not be identified and the poor mother bears the burden. The child also bears the taint of illegitimacy.

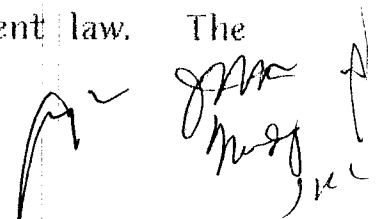
In fact, some decisions of the Supreme Court even up to the present favor this tradition. In *People vs. de Guzman*, 217 SCRA 395 (1993), the Court ruled that a convicted rapist which resulted in the birth of a child cannot be compelled to recognize the offspring if he is married. We do not see any valid reason for this ruling considering

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that the rapist was the real father. In *Macadangdang vs. Mejias*, 100 SCRA 73 (1986), Elizabeth Mejias was married to Crispin Anahaw who had an illicit affair with Antonio Macadangdang, for which reason, Elizabeth separated from her legal husband, Crispin Anahaw. Seven months later, Elizabeth gave birth to a baby boy and was baptized Rolando Macadangdang. Elizabeth later filed a complaint of recognition and support against Antonio Macadangdang. Antonio Macadangdang denied that he was the father of Rolando.

The Supreme Court sustained Antonio Macadangdang and even denied Elizabeth's claim that Antonio Macadangdang was the father of her child. Asserting the "macho" posture Supreme Court sustained the right of Antonio Macadangdang to repudiate that he was the father of Rolando Macadangdang.

These decisions are unfair to the mother and the child. In fact, House Bill No. 8010 should be strengthened to remedy the discrimination against women. This bill should be supported by the women's liberation movement to discourage situations of men having illicit relations with women not their wives and go scott free as they can easily repudiate their filiation under the present law. The

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proposed bill should contain provisions to make it easier to prove the real parentage with illegitimate children.

The bill promotes the principle under the Convention on the Rights of the Child. Article 8 of the Convention on the Right of the Child states that:

1. *State Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.*
2. *Where a child is illegally deprived of some or all of the elements of his or her identity, State Parties shall provide appropriate assistance and protection, with a view to speedily re-establishing his or her identity.*

(Italics Supplied)

*For John  
Harty, Inc  
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It is also in compliance with the principle that in cases of disputes "the best interests of the child" should always be considered.

Article 3, par. 1 of the Convention on the Rights of the Child reads:

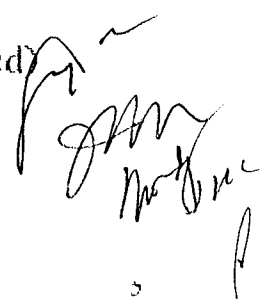
*"In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."*

(Italics Supplied)

Article XV, sec. 3 (2) of the Philippine Constitution reads:

*"The rights of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development."*

(Italics Supplied)

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The identity of the child should be traced from the real father in order to avoid the taint of illegitimacy. Our own President readily allows his children with several women not married to him to use his family name, at least he is man enough to accept his responsibility as a father.

The Commission on Human Rights respectfully endorses the enactment of House Bill No. 8010.

Done this 7th day of October, 1999, Quezon City.

  
AURORA P. NAVARRETE-RECIÑA  
Chairman

  
NASSER A. MAROHOMSALIC  
Commissioner

  
MERCEDES V. CONTRERAS-DANENBERG  
Commissioner

  
VICENTE P. SIBULO  
Commissioner

  
JORGE R. COQUIA  
Commissioner