



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

**POSITION PAPER
ON
HOUSE BILL NO. 7436**

Entitled

"AN ACT PROHIBITING THE ARREST OF ANY PERSON BY VIRTUE OF A WARRANT DURING WEEKENDS AND HOLIDAYS, EXCEPT IN CERTAIN INSTANCES, PRESCRIBING PENALTIES FOR VIOLATION THEREFOR, AND FOR OTHER PURPOSES"

(Introduced by Congressman Romeo R. Salalima)

The present bill seeks to remedy the abhorrent practice of police or warrant officers of serving warrant of arrests on weekends or on holidays which in effect prevents the accused to immediately avail himself of his right to bail guaranteed under the Constitution. For lack of legal sanction, the practice has been known to be source of abuse and rich pasture for graft and corruption of police and court authorities. Hopefully, with the proscription of such practice under the present bill, the condemnable practice will be lessened if not totally eliminated.

The Commission supports in principle the passage of this bill, as it protects human rights of persons who are entitled to bail.


The penalty of 6 years and 1 day to 12 years and a fine of P20,000.00 of the proposed bill is too harsh and disproportionate to the offense punished. It is suggested that the penalty of prison correctional and a fine of P10,000.00 plus an administrative disciplinary action be imposed.


The proposed bill should also include the punishment of judges who issue warrants of arrests past the period of office hours or on holidays unless there is an urgent necessity. If the issuance of warrants of arrests at night or on holidays is to prevent the suspect from securing a bailbond, then the judges who issued said warrants are likewise guilty. It should also be considered a criminal offense.

In the alternative, since judges can be investigated only by the Supreme Court and not by the Ombudsman on acts committed in connection with their official duties, as ruled by the Supreme Court in *Maceda vs. Ombudsman*, G.R. 102 781 April 1993, a provision in the bill should include a proper indorsement to the Supreme Court for the imposition of appropriate disciplinary action for erring judges. A similar incident occurred in 1977 when Judge Pio Marcos of Baguio issued a search warrant at 12 midnight and ordered the execution of the warrant at 2:00 AM to seize the "Golden Buddha" from Rogelio Roxas. The Secretary of Justice filed an administrative charge against Judge Marcos (*Secretary of Justice vs. Marcos* 76 SCRA 301). *h*

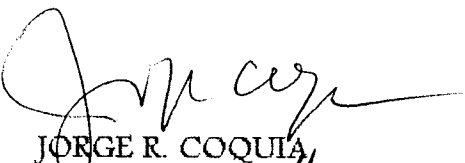
As a whole, the Commission supports the earnest passage of this bill but with certain reservations of the penalty provision and the suggestion to include also judges.


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Chairperson


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