

On the Death Penalty for Minors

We are issuing the following Human Rights Advisory on the proposal to lower the age of majority from 18 years to 16 years old, with the intention of imposing the death penalty to minors.

1. The said plan will violate at least two (2) international instruments on human rights, which the Philippines is a party, the Philippine Constitution enacted legislation concerning children.

Article 6(5) of the International Covenant on Civil and Political Rights reads:

"Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women." (underscoring supplied)

Likewise, Article 37(a) of the Convention on the Rights of the Child reads:

"No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offenses committed by persons below eighteen (18) years of age." (underscoring supplied)

Under our present law, all persons below the age of 18 are considered children (*Republic Act No. 6809*). Article 1 of the Convention on the Rights of the Child states that a child means every human being below the age of 18 years. Article XV, Section 3(2) of the Philippine Constitution reads:

"The right 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."

As declared in Article 1 of the Child and Youth Welfare Code (*Presidential Decree No. 603*), the Child is one of the most important assets of the nation. Every effort should be exerted to promote his welfare and the opportunity for a useful and happy life.

2. Due to their age and mental immaturity, children need special protection and care. Instead of terminating the lives of minors, by applying the death penalty for special offenders, they should be given special protection for their development.

3. It is the duty of the State to exercise its role as "*Parens Patriae*" to provide special protection to children against all forms of neglect, abuse, cruelty and exploitation and other conditions prejudicial to their development unable as they are to take of what concerns them. The political community of the State should look after their welfare. (*Nery vs. Lorenzo, 44 SCRA 431 (1973)*).

4. Children who may have committed offenses or find themselves in conflict with the law should be given special attention under the Child Welfare Code (*Presidential Decree No. 603*). If a minor is found guilty of an offense, the sentence will be suspended to give him opportunity for his rehabilitation.

5. The Commission on Human Rights reiterates its position that it is against any law imposing death penalty. The Commission also reiterates the Resolution submitted to the Senate to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, appealing to all states to abolish the death penalty in their statutes. The majority of the nations have already abolished the death penalty, which is consistent with the protection and promotion of human rights. The International Criminal Court, approved in Rome, and the UN Special Tribunals in trying more serious cases with genocide and crime against humanity do not impose death penalty.

Quezon City , 13 September 1999