

On the Treatment of Persons Under Police Custody

Various complaints show that Philippine National Police officer and other law-enforcement agents have been maltreating or torturing persons under their custody. One recent instance is the torture and beating up of suspects of the bombing incidents in Metro Manila while they are in custody for investigation. Some of them alleged that they were arrested without judicial warrant. Some prosecution officials have admitted said maltreatment but merely dismissed them as inadmissible in court. Allegations also have been made on the extra judicial execution of persons under the custody of the police and other law enforcement agents.

In some instances, detained persons are denied visits and/or consultations with any member of his family, lawyers, or individuals authorized by the Commission on Human Rights for consultations.

The Commission on Human Rights reminds all law-enforcement officers of several international instruments on human rights which the Philippines, has ratified. Article 10 of the International Covenant on Civil and Political Rights reads:

1. *All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.*
2. (a) *Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;*

(b) *Accused juvenile persons shall be separated from adults from adults and brought as speedily as possible for adjudication.*
3. *The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offender/s shall be segregated from adults and accorded treatment appropriate to their age and legal status.*

Article I of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment reads:

"For purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."

These human rights instruments are substantially reiterated in the Philippine Constitution and statutory legislation. Article III, Sections 12(2) and 19(2) read:

Section 12 -

- (2) *No torture force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against him. Secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited.*

Section 19 (1) -

(2)The employment of physical, psychological, or degrading punishment against any prisoner or detainee or the use of substandard or inadequate penal facilities under sub-human conditions shall be dealt with the law

Section 2 (f) of Republic Act 7438 reads:

Any person arrested, detained or under custodial investigation shall be allowed visits by or conferences with any member of his immediate family, or any medical doctor or priest or religious minister chosen by him or by any member of his immediate family or by his counsel, or by any national non-governmental organization duly accredited by the Commission on Human Rights or by any international non-governmental organization duly accredited by the Office of the President. The person's "immediate family" shall include his/her spouse, fiancé or fiancée, parent or child, brother or sister, grandparent or grandchild, uncle or aunt, nephew or niece, and guardian or ward".

As used in this Act, "custodial investigation" shall include the practice of issuing an 'invitation' to a person who is investigated in connection with an offense he is suspected to have committed, without prejudice to the liability of the 'inviting' officer for any violation of law.

Any maltreatment of the persons detained for investigation and of the convicted prisoners is an outright defiance to the Declaration of the State Policy under Article II, Section 11 of the Philippine Constitution, which reads:

"The State values the dignity of every human person and guarantees full respect for human rights."

The Commission on Human Rights respectfully addresses this Advisory to all police officers, law enforcement agents and all concerned on their compliance with the human rights instruments, the Constitution and pertinent legislation.

Quezon City, 26 June 2000