

On the Full Respect of Human Rights Under the State of Rebellion

The events that have occurred which led to the declaration of the state of rebellion in Metro Manila by President Gloria Macapagal-Arroyo have raised several issues, political or otherwise. The Human Rights Commission is not concerned with its political implication. It is concerned with its constitutional function of monitoring state compliance of International Human instruments.

The declaration of State of Rebellion in Metro Manila is a prerogative of the President under her constitutional powers, limited only to the first sentence of Article VII, Section 18 of the 1987 Philippine Constitution which reads:

"The President shall be the Commander-In-Chief of all armed forces of the Philippines and whenever it becomes necessary, he may call out such armed forces to prevent or suppress lawless violence, invasion or rebellion."

The declaration is a statement of fact according to the Secretary of Justice and is entirely different from the following sentences of Section 18, which include the power of the President to suspend the privilege of the writ of habeas corpus or place the Philippines or any part thereof under Martial Law. It is not a proclamation of a state of emergency that requires a report of the President in person or in writing to Congress.

We note by the declaration of the state of rebellion by the government conformably to Paragraph 1 of Section 18, Article VII of the Philippine Constitution, the President called in the military armed forces to assist the police functions, particularly in quelling unruly crowds who threatened the security and integrity of Malacanang Palace, the seat of power.

Media and television coverage showed rallyists aggressively and belligerently attacking the police who manned the security perimeter of Malacanang, as a result of which six persons died, including two policemen, and 113 were injured. The television coverage also showed the police beating some of the rallyists who were already apprehended. The rallyists, in open defiance of police authorities, destroyed public and private properties, looted stores and openly torched several vehicles, including two belonging to the media group.

With the state of rebellion declared, the Commission on Human Rights reminds the military forces which may perform police functions to observe full respect of human rights. Specifically, the rule on warrantless arrests under Rule 113 of the Rules of Court should be observed.

At this juncture, the Commission on Human Rights appreciates the President's decisive action to protect society especially her professions for the observance of human rights. Axiomatic is the principle in our Constitutional democracy that even a national emergency cannot suspend the operation of our Constitution which includes the Bill of Rights (*Section 18, Article VII, Philippine Constitution*)

Section 1 and 2 of Article 4 of the International Covenant on Civil and Political Rights read:

"1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the State Parties to the present covenant may take measures derogating from their obligations under the present covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

"2. No derogation from Articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be under this provision."

This means that there should be no derogation of human rights under Articles 6, 7, 8, 11, 15, 16 and 18 of the Covenant. Article 6 refers to the inherent right to life; Article 7 refers to non-enforcement of cruel, inhuman and degrading treatment and punishment; Article 8 deals with the prohibition of involuntary servitude; Article II refers to non-imprisonment for contractual debts; Article 15 speaks of liberty of movement and abode; Article 16 relates to one's right to recognition everywhere as a person before the law; and Article 18 pertains to freedom of thought, conscience and religion. It is hoped, as the government authorities have assured the public, that the declaration of the state of rebellion will be lifted in due time.

The Commission on Human Rights respectfully addresses this Advisory to Her Excellency President Gloria Macapagal-Arroyo, the Honorable Secretary of Justice, the Secretary of National Defense, the Chief of Staff of the Armed Forces of the Philippines and the Director General of the Philippine National Police and all military and police authorities for their information.

Quezon City, 02 May 2001