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THIRTEENTH CONGRESS)
Second Regular Session)

S E N A T E

COMMITTEE REPORT NO. 70

Submitted by the Sub-Committee I of the Committee on Justice and *Human Rights and the Committee on Public Services on 5 April 2006.*

Re: **Items 1, 2, 6, 7 and 8 of P. S. Resolution No. 461 (the alleged ban on rallies and warrantless arrests effected by the government pursuant to Proclamation No. 1017)** introduced by Senators Drilon, Pangilinan, Mar Roxas, Compañera Pia S. Cayetano, Biazon, M.A. Madrigal, Lacson, Lim, Luisa "Loi" P. Ejercito Estrada, Magsaysay Jr., Angara, Enrile, Recto, Jinggoy Ejercito Estrada, Serge Osmeña and Manny Villar

Recommending the adoption of this Report and the immediate implementation of the recommendations contained herein.

Sponsor: Senator Francis N. Pangilinan, Chairman; Senators Edgardo J. Angara, Juan Ponce Enrile, Richard J. Gordon, Alfredo S. Lim, M. A. Madrigal, Ramon "Bong" Revilla, Jr., Mar A. Roxas II and Manuel B. Villar, members of the Sub-Committee I of the Committee on Justice and Human Rights and the Committee on Public Services

Mr. President:

P. S. Resolution No. 461, filed by Senators Drilon, et al., was referred to the *Committee on Justice and Human Rights and to the Committee on Public Services, as secondary committee, for inquiry and* hearing in aid of legislation. Pursuant to Section 18, Rule X of the Rules of the Senate in relation to Section 20 of the Rules of Procedure Governing Inquiries in Aid of Legislation, Sub-Committee I of the Committee on

Justice and Human Rights was constituted to conduct an inquiry with respect to items 1, 2, 6, 7 and 8 of P. S. Resolution No. 461, to wit:

(1) all scheduled rallies, with or without permit, were cancelled;

(2) some protesters, including UP Professor Randy David and Akbayan President Ronald Llamas, were apprehended for inciting to sedition and violation of the Public Assembly Act;

(6) Party List Congressman Crispin Beltran was arrested based on a warrant of arrest issued during Martial Law, while other lawmakers are under threat of arrest;

(7) Attempted arrest of BAYAN MUNA Representative Satur Ocampo;

(8) Retired Major General Ramon Montaño was likewise arrested while other lawmakers and alleged opposition leaders are under threat of arrest;

The Committee, after conducting an extensive inquiry, has the honor to submit this Report to the Senate, without prejudice to the submission of an extended resolution, if necessary.

I. PREFATORY STATEMENT

On 24 February 2006, the 20th year anniversary of the People Power Revolution, President Gloria Macapagal Arroyo issued Proclamation No. 1017, entitled "PROCLAMATION DECLARING A STATE OF NATIONAL EMERGENCY". Citing an alleged conspiracy between the authoritarians of the extreme Left and the extreme Right to bring down the duly constituted Government elected in May 2004, the President, as Commander-in-Chief of the Armed Forces of the Philippines ("AFP"), commanded the AFP "to maintain law and order throughout the Philippines, prevent or suppress all forms of lawless violence as well as any act of insurrection or rebellion and to enforce obedience to all the laws and to all decrees, orders and regulations promulgated by [the President] personally or upon [her] direction", and declared a State of National Emergency.

A series of alarming events ensued pursuant to the proclamation, including, among others, the following: (1) all scheduled rallies, with or without permit, were cancelled; (2) some protesters, including UP Professor Randy David and Akbayan President Ronald Llamas, were apprehended for inciting to sedition and violation of the Public Assembly Act; (3) the National Telecommunications called a meeting of the members of the Kapisanan ng mga Broadcasters sa Pilipinas (KBP) and discussed the possible revocation of franchise or take-over of media companies that engage in biased reporting or publication of matters affecting national security; (4) a 6:00 p.m. curfew was imposed on the press corps of Malacañang; (5) one major newspaper, The Daily Tribune, was raided and other major dailies were placed under surveillance; and (6) Party-List Congressman Crispin Beltran was arrested based on a warrant of arrest issued during Martial law, while other lawmakers are under threat of arrest; (7) Attempted arrest of BAYAN MUNA Representative Satur Ocampo; and (8) Retired Major General Ramon Montaño was likewise arrested while other lawmakers and alleged opposition leaders are under threat of arrest.

Concerned with the possible abuses which may have been committed in the name of Proclamation No. 1017, and mindful of the duty

of the Senate, as part of the democratic checks and balance, to ensure that the acts of any other branch of government do not transgress the basic tenets of the Constitution, Senate President Franklin Drilon, along with fifteen (15) other Senators, filed Resolution No. 461, entitled "RESOLUTION CONDEMNING THE RAID AND THE EXERCISE OF CONTROL OVER PRINT MEDIA, THE WARRANTLESS ARRESTS OF SEVERAL CITIZENS INCLUDING A MEMBER OF THE HOUSE OF REPRESENTATIVES, AND OTHER SIMILAR ACTS CARRIED OUT BY THE GOVERNMENT PURSUANT TO PROCLAMATION NO. 1017 ISSUED BY PRESIDENT GLORIA MACAPAGAL-ARROYO" on 27 February 2006. In the resolution, the Senate condemned the acts carried out pursuant to Proclamation No. 1017 and directed the appropriate committee to conduct an inquiry, in aid of legislation, into the said acts, with the end-in-view of enacting remedial legislation which would fully protect the constitutionally-enshrined rights of the people. The Senate adopted P. S. Resolution No. 461 on even date.

P. S. Resolution No. 461 was referred to the Committee on Justice and Human Rights and to the Committee on Public Services, as secondary committee, for inquiry and hearing in aid of legislation. Pursuant to Section 18, Rule X of the Rules of the Senate in relation to Section 20 of the Rules of Procedure Governing Inquiries in Aid of Legislation, Sub-Committee I of the Committee on Justice and Human Rights was constituted to conduct an inquiry with respect to items 1, 2, 6, 7 and 8 of Resolution No. 461. Sub-Committee II, on the other hand, was constituted to conduct an inquiry on items 3, 4 and 5 of the resolution.

II. THE SUB-COMMITTEE'S ACTION

Acting on the referral of items 1, 2, 6, 7 and 8 of P. S. Resolution No. 461 to Sub-Committee I, the latter accordingly conducted one (1) sub-committee hearing on 13 March 2006, 10:00 a.m. at the Senator Ambrosio Padilla Room, Senate Building.

The witnesses, resource persons and guests who testified during the hearing included:

1. ABS-CBN/DZMM technical staff namely, Ms. Rochelle Inocillo, Mr. Benjamin Julian Guilab (Operation Technician), Mr. Romel Legaspi (Production and Technical Assistant), and Mr. Melchor Quintos, all accompanied by ABS-CBN Legal Counsel, Atty. Ray John Basa, Jr.;

2. GMA-7/DZBB technical staff namely, Mr. Melchor Quintos (Cameraman) and Mr. Dennis Catillanes (technician), all accompanied by GMA-7 Legal Counsel, Atty. Jose Vener Ibarra;

3. Prof. Randy David;

4. Mr. Ronald Llamas, Akbayan President;

5. Justice Vicente V. Mendoza (retired Supreme Court Justice);

6. Atty. Gwen de Vera of the UP College of Law (assisting Justice Mendoza);

7. Dean Andres Bautista, FEU-La Salle College of Law;

8. Ms. Maria Socorro Diokno, Secretary General, Free Legal Assistance Group ("FLAG"); and

9. *Commissioners Wilhelm Soriano and Dominador Calamba of* the Commission on Human Rights.

Sub-Committee I invited Philippine National Police ("PNP") Chief Director General Arturo Lomibao to attend as resource person in the 13 March 2006 hearing. However, in the morning of the said hearing, the Sub-Committee received a written communication, signed by Police Deputy Director General Isidro Lapeña, invoking Executive Order No. 464, to wit:

"It is with deep regret that the Chief, PNP nor any of his representatives cannot attend the said Senate hearing. As of this writing, the PNP has not yet received the required consent/authority from the Office of the President pursuant to Executive Order No. 464 dated September 28, 2005."

The Sub-Committee set a second hearing on 16 March 2006 and invited Representatives Crispin Beltran and Satur Ocampo as resource persons therein. Since Rep. Beltran was under the custody of the Philippine National Police (PNP) then (as he is still so to date), the Sub-Committee requested the PNP to allow Rep. Beltran to attend the hearing. The PNP responded in writing and suggested that the Sub-Committee secure permission from the court hearing Rep. Beltran's rebellion case, which has jurisdiction over his person. Rep. Beltran, on the other hand, although not under PNP custody, has been housed in the House of Representatives due to constant threat of possible illegal arrest.

The Sub-Committee also attempted to invite retired General Ramon Montaño to the scheduled 16 March 2006 hearing. Unfortunately, the Sub-Committee was unable to locate his whereabouts.

Due to its inability to convene the resource persons for the second hearing, Sub-Committee I was constrained to cancel the same. Valuing the insights of Reps. Beltran and Ocampo (who both had personal experience of an arrest/attempted arrest during the State of National Emergency), the Sub-Committee requested for their sworn statement/position paper on the matters subject of the instant inquiry.

Aside from testimonial evidence, the Sub-Committee likewise considered documentary and real evidence such as the position papers of Rep. Crispin Beltran, the Commission on Human Rights and FLAG; statement of Rep. Satur Ocampo, and other documents, news reports as well as audio and video recordings of declarations of top government officials, submitted by ABS-CBN and GMA-7.

III. STATEMENT OF FACTS

A. Proclamation No. 1017 and related General Orders issued by the President

On 24 February 2005, President Gloria Macapagal Arroyo issued Proclamation No. 1017 (the "Proclamation"), which reads in full:

> "WHEREAS, these past months, elements in the political opposition have conspired with authoritarians of the extreme Left represented by the NDF-CPP-NPA and the extreme Right, represented by military adventurists – the historical enemies of the democratic Philippine State – who are now in a tactical alliance and engaged in a concerted and systematic conspiracy, over a broad front, to bring down the duly-constituted Government elected in May 2004;
>
> WHEREAS, these conspirators have repeatedly tried to bring down the President;
>
> WHEREAS, the claims of these elements have been recklessly magnified by certain segments of national media;
>
> WHEREAS, this series of actions is hurting the Philippine State – by obstructing governance including hindering the growth of the economy and sabotaging the people's confidence in government and their faith in the future of this country;
>
> WHEREAS, these actions are adversely affecting the economy;
>
> WHEREAS, these activities give totalitarian forces of both the extreme Left and the extreme Right the opening to intensify their avowed aims to bring down the democratic Philippine State;
>
> WHEREAS, Article 2, Section 4 of our Constitution makes the defense and preservation of the democratic institutions and the State the primary duty of Government;
>
> WHEREAS, the activities above-described, their consequences, ramifications and collateral effects constitute a clear and present danger to the safety and the integrity of the Philippine State and of the Filipino people;

NOW, THEREFORE, I, Gloria Macapagal Arroyo, President of the Republic of the Philippines and Commander-in-Chief of the Armed Forces of the Philippines, by virtue of the powers vested upon me by Section 18, Article 7 of the Philippine Constitution which states that: "The President...whenever it becomes necessary,... may call out (the) armed forces to prevent or suppress... rebellion." And in my capacity as their Commander-in-Chief, do hereby command the Armed Forces of the Philippines, to maintain law and order throughout the Philippines, prevent or suppress all forms of lawless violence as well as any act of insurrection or rebellion and to enforce obedience to all the laws and to all decrees, orders and regulations promulgated by me personally or upon my direction; and as provided in Section 17, Article 12 of the Constitution do hereby declare a State of National Emergency."

Upon the issuance of the Proclamation, Presidential Chief of Staff Mike Defensor announced over the radio and television that the Proclamation will pave the way for warrantless arrests, government take-over of utilities, including the media, if they are considered a threat to national security, and a ban on rallies.[1] In a television interview, Secretary Mike Defensor gave the following statements:

"**SEC. DEFENSOR**: Bawal po ang lahat ng rally.

x x x

SEC. DEFENSOR: Lahat ng mga permits po sa rally ay ni-revoke at lahat po ng mga pagkilos na iyan ay aksyunan ng ating Philippine National Police.

x x x

SEC. DEFENSOR: Kasama ang Makati.

x x x

SEC. DEFENSOR: Lahat po ng lugar ay pinagbabawalan ng rally.

x x x

SEC. DEFENSOR: Idi-disperse lahat ng nagra-rally.

[1] ABS-CBN, DZMM and DZBB live interviews with Presidential Chief of Staff Mike Defensor on 24 February 2006 (See authenticated tape and video recordings submitted to Sub-Committee I).

x x x

SEC. DEFENSOR: Lahat ng permit ay ni-revoke.

x x x

SEC. DEFENSOR: Binibigyan ngayon ng kapangyarihan ang pangulo ang lahat ng mga ahensya ng pamahalaan particular ang mga armadong nating mga ahensya ng Philippine National Police, Armed Forces of the Philippines na pumasok dito sa atin para magkaroon ng kapayapaan dito sa ating kalungsuran.

Pangalawa, pwede pong manghuli ng mga tao na hinihinala o alam natin na meron kagagawan o meron partisipasyon dito sa kaganapan.

Malinaw po ang binanggit ng pangulo na may mga naaresto na at aarestuhin pa na mga indibidwal na kasama dito sa isang organisadong pagkilos upang agawin ang puder

REPORTER: Suspended po ba ang writ of habeas corpus?

SEC. DEFENSOR: Sa sitwasyon ngayon pwede magkaroon ng warrantless arrest.

SEC. DEFENSOR: Ang mga may ebidensya lang ba ang pwedeng arestuhin?

SEC. DEFENSOR: Ang lahat ay pwede arestuhin sa ngayon at pinagsususpetyahan pa lang at siyempre batay dyan, pwede sampahan ng kaso, batay sa ebidensya makikita kung pwede siyang magpiyansa o hindi sa ebidensya ipresenta.

SEC. DEFENSOR: May warrantless arrest under the state of emergency."[2] (Emphasis supplied)

Pursuant to the Proclamation, on 24 February 2006, the President issued General Order No. 5 ("G.O. 5"), entitled "DIRECTING THE ARMED FORCES OF THE PHILIPPINES IN THE FACE OF NATIONAL EMERGENCY, TO MAINTAIN PUBLIC PEACE, ORDER AND SAFETY AND TO PREVENT AND SUPPRESS LAWLESS VIOLENCE". The final clause of the Proclamation provides:

[2] GMA-7 taped interview of Sec. Mike Defensor on 24 February 2006, presented during the 13 March 2006 hearing of Sub-Committee II.

"NOW, THEREFORE, I, GLORIA MACAPAGAL ARROYO, by virtue of the powers vested in me under the Constitution as President of the Republic of the Philippines, and Commander-in-Chief of the Republic of the Philippines, and pursuant to Proclamation No. 1017 dated February 24, 2006, do hereby call upon the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP), to prevent and suppress acts of terrorism and lawless violence in the country;

I hereby direct the Chief of Staff of the AFP and the Chief of the PNP, as well as the officers and men of the AFP and PNP, to immediately carry out the necessary and appropriate actions and measures to suppress and prevent acts of terrorism and lawless violence."

On the same day, the President likewise issued General Order No. 6 ("G.O. 6"), which appears to have been less-publicized as G.O. 5. G.O. 6, entitled "DIRECTING THE ARMED FORCES OF THE PHILIPPINES TO COORDINATE WITH THE PHILIPPINE NATIONAL POLICE AND OTHER LAW ENFORCEMENT AGENCIES IN THE IMPLEMENTATION OF PROCLAMATION NO. 1017 DATED FEBRUARY 24, 2006 DECLARING A STATE OF NATIONAL EMERGENCY", states in part:

"NOW, THEREFORE, I, GLORIA MACAPAGAL-ARROYO, by virtue of the powers vested in me under the Constitution as President of the Philippines and Commander-in-Chief of the Republic of the Philippines and pursuant to Proclamation No. 1017 dated February 24, 2006, do hereby direct the Chief of Staff of the Armed Forces of the Philippines (AFP) to coordinate with the Chief of the Philippine National Police (PNP) and the heads of other law enforcement agencies to, under my instruction and directives, undertake such actions as may be necessary to prevent and suppress lawless violence.

Further, the Chief of Staff of the AFP is directed to coordinate with the Office of the President, the Secretary of National Defense, the Department of National Defense, the Secretary of Interior and Local Government, the Department of Interior and Local Government, the Secretary of Justice, the Department of Justice, the Secretary of Foreign Affairs, the Department of Foreign Affairs, the Secretary of Transportation and Communications, the Department of Transportation and Communications, and such other officials and agencies on

their respective responsibilities and obligation *(sic)* to successfully implement Proclamation No. 1017."

B. Arrest of Prof. Randy David and Mr. Ronald Llamas

In the morning of 24 February 2006, UP Professor Randy David and Anakbayan President Ronald Llamas were with a large multi-sectoral group that was marching on EDSA to join the 20th anniversary of the People Power Revolution. At the foot of the Santolan flyover along EDSA, a phalanx of police armed with shields and truncheons stopped the marching group, including Prof. David and Mr. Llamas. The police gave the marchers five (5) minutes to disperse.[3]

Though he was not the leader of the march, Mr. David took it upon himself to request the police to let them through. He politely introduced himself to Gen. Nicasio Radovan, Jr. of the Central Police District. Gen. Radovan informed him that all permits for rallies had been cancelled for that day, and that he had orders to disperse them.

When Gen. Radovan abruptly turned around and walked away, Prof. David decided to follow him to see if he could still talk to him. Mr. Llamas followed, crossing the police line. Immediately then, three (3) plainclothes men grabbed Prof. David and Mr. Llamas from behind. The dispersal of the marchers proceeded with precision almost at the same time Prof. David and Mr. Llamas were arrested, along with another marcher, Atty. Argee Guevarra.[4]

The three (3) plainclothesmen led Prof. David towards the parking bay near the flyover in Santolan. There, the police first told Prof. David. that he was being "invited". When Prof. David asked if he could refuse the invitation, one of the men in plainclothes retorted, "You are under arrest under P.P. 1017". Thinking that he heard "P.D. 1017", Prof David asked

[3] Statement of Prof. Randy David during the hearing of Sub-Committee I on 13 March 13, 2006, 10:00 a.m. at the Padilla Room, Senate Building.
[4] Statements of Prof. David and Mr. Llamas during the hearing of Sub-Committee I on 13 March 13, 2006, 10:00 a.m. at the Padilla Room, Senate Building.

what was it about, but the police simply told him to ask his question in Camp Karingal.[5]

Prof. David drew comfort in the fact that he was constantly talking to ANC reporter/newscaster Ricky Carandang through his cellphone while he was being arrested. A member of the arresting team, who was also in plainclothes, held Prof. David's head and tried to push him into an unmarked car. Instinctively, he struggled to free himself and told the man not to touch him.[6]

At Camp Karingal, Prof. David and Mr. Llamas were fingerprinted, photographed and booked like criminal suspects. [7] Also detained with them there were a number informal settlers from Bagong Silang, Caloocan, including around thirteen (13) children. These detainees were picked up aboard a passenger jeepney headed for the EDSA Shrine that morning.[8]

Prof. David and Mr. Llamas underwent inquest proceedings late in the afternoon of 24 February 2006. The policemen in plainclothes who arrested them, charged them with violation of Batas Pambansa Blg. 880 ("B.P. 880") or the Public Assembly Act. The policemen explained that they assumed Prof. David and Mr. Llamas to be leaders of the rally as they were the ones negotiating with Gen. Radovan. The policemen also charged them with inciting to sedition[9] allegedly because one of their companions, Atty. Guevarra (who was also arrested with them), was wearing a shirt with a sticker saying "Oust Gloria Now". The inquest fiscals, First Assistant Prosecutor Meynardo Bautista, Jr. and a certain Prosecutor Valdez, found the evidence against Prof. David, Mr. Llamas and Atty. Guevarra insufficient, and ordered their release "for further investigation". They were accordingly released after almost seven (7) hours of detention.[10]

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[5] Statement of Prof. David during the hearing of Sub-Committee I on 13 March 13, 2006, 10:00 a.m. at the Padilla Room, Senate Building.
[6] Ibid.
[7] Ibid.
[8] Ibid.
[9] Article 142 of the Revised Penal Code.
[10] Statement of Prof. David during the hearing of Sub-Committee I on 13 March 13, 2006, 10:00 a.m. at the Padilla Room, Senate Building.

The informal settlers, who have reached around eighty (80) in number, were detained at the Camp Karingal Firing Range. They were released only later that evening, after Prof. David and Mr. Llamas along with Senators Kiko Pangilinan, Mar Roxas, Ramon Magsaysay and other lawyers went to them.[11]

C. Arrest of Representative Crispin Beltran[12]

In the morning of 25 February 2006, a day after the issuance of the Proclamation, members of the Criminal Investigation and Detection Group ("CIDG") of the PNP "invited" Representative Crispin Beltran of the Anakpawis Party List Group for questioning, as he was about to leave his home in Del Monte City, Bulacan.[13]

The armed CIDG operatives brought Rep. Beltran to their headquarters in Camp Crame. There, Rep. Beltran's lawyers demanded from the arresting officers the basis of his arrest. The latter showed them a warrant of arrest against Rep. Beltran dated 7 October 1985, for inciting to rebellion, etc. Rep. Beltran's lawyers quickly informed the arresting team that the said case had in fact been dismissed, and committed to submit to them the dismissal order issued by the court. Despite this, the CIDG refused to release Rep. Beltran and placed him under indefinite detention.

At around midnight of 25 February 2006, the CIDG caused Rep. Beltran to be subjected to inquest proceedings for another crime, i.e. inciting to sedition. The charge was allegedly based on Rep. Beltran's inflammatory speech on 24 February 2004, at a political rally in Quezon City, where he uttered: *"Ibagsak ang rehimeng Arroyo! Patalsikin si Gloria! Palayasin sa Malacañang ang huwad na Pangulo! Palitan and gobyernong Arroyo ng tunay na Pamahalaang Anak-Pawis!"*

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[11] Statements of Prof. David and Mr. Llamas during the hearing of Sub-Committee I on 13 March 13, 2006, 10:00 a.m. at the Padilla Room, Senate Building.
[12] Based on the pleadings and papers submitted to the Sub-Committee by Rep. Beltran.
[13] www.ing7.net, Congressman Beltran arrested on a 21-year old charge, February 25, 1996.

Rep. Beltran's lawyers strongly objected to the inquest and invoked their client's parliamentary immunity from arrest pursuant to Article VI, Section 11 of the 1987 Constitution. Inciting to sedition under Article 142 of the Revised Penal Code is punishable by less than six (6) years imprisonment. Moreover, although Rep. Beltran took part in the rally at the People Power Monument in Quezon City on 24 February 2006, he did not speak publicly in the said event, as confirmed by the video footages of the event. Still, however, the prosecutor proceeded with the inquest and even resolved to file an information for inciting to sedition against Rep. Beltran.

On 27 February 2006, an information for inciting to sedition was filed against Rep. Beltran before Branch 43, Metropolitan Trial Court of Quezon City. On the same day, he again was subjected, without prior notice, to another inquest proceeding, this time for the crime of rebellion.

The next day (28 February 2006), an information for rebellion was filed against Rep. Beltran, along with one of the Oakwood mutineers, 1Lt. Lawrence San Juan, before Branch 137 of the Makati City Regional Trial Court. The Information accused Rep. Beltran of conspiring and forming a tactical alliance with the Communist Party of the Philippines/New People's Army and the Makabayang Kawal ng Pilipinas to rise publicly and take up arms against the government, to ultimately overthrow the President and the present government.

On 13 March 2006, Branch 43 of the Metropolitan Trial Court of Quezon City issued an Order in the inciting to sedition case, directing the release of Rep. Beltran, based on his constitutionally-mandated parliamentary immunity from arrest.

However, to date, Rep. Beltran remains in the custody of the CIDG despite the said release order because of the pending rebellion case filed against him.

D. Attempted arrest of Representative Satur Ocampo

On 25 February 2006, shortly after 10:00 a.m. and a couple of hours after the arrest of Rep. Beltran, Bayan Muna Representative Satur Ocampo got into his car at the lobby of the Sulo Hotel in Quezon City, after speaking at a press conference of the House Minority in the said hotel. While he was with two (2) of his staff inside the car, a Mitsubishi L-300 suddenly blocked their path along the intersection of Malakas and Matapang Streets, Teacher's Village, Quezon City.[14]

Thereupon, three (3) burly men wearing blue shirts bearing the print "CIDG-QUEZON CITY" got out of the van with drawn firearms aimed at Rep. Ocampo's car. Fortunately, through the survival instincts and presence of mind of Rep. Beltran's driver, they were able to back off and speed away to another street, thereby escaping the attempt to arrest them.[15]

Unfortunately, the PNP-CIDG operatives prevented Rep. Ocampo's back-up driver and another staff from leaving the Sulo Hotel, poked their guns at them and took them to Camp Crame. The two were released shortly thereafter, without any charge filed against them.[16]

E. Arrest of Retired General Ramon Montaño[17]

Also on 25 February 2006, hours after the arrest of Rep. Beltran and the attempted arrest of Rep. Ocampo, several policemen invited Philippine Constabulary Retired Major General Ramon Montaño to Camp Crame to answer some charges, while he was playing golf in a country club in Cavite. General Montaño was brought to Camp Crame with his golf buddy, Rex Piad.

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[14] Based on the Statement submitted by Rep. Ocampo to Sub-Committee I on 30 March 2006.
[15] Ibid.
[16] Ibid.
[17] This account is based mainly on news reports (www.inq7.net, *"Solon, retired general arrested for conspiracy"*, posted on February 26, 2006) as the Sub-Committee could not get in touch in with Gen. Montaño.

F. Lifting of Proclamation No. 1017

Before noon of 3 March 2006, the President issued Proclamation No. 1021 declaring that the State of National Emergency has ceased to exist. Proclamation No. 1021, however, does not expressly revoke G.O. 5 and G.O. 6 which were issued pursuant to Proclamation No. 1017.

IV. DISCUSSION

A. Proclamation No. 1017

Under Article VII, Section 18 of the Constitution, the President has three (3) distinct powers as Commander-in-Chief.

"The first is the power to call out the armed forces to suppress violence, quell rebellions or meet the threats of invasions." "This involves simple police action which may include arresting those involved in violence..."[18]

The second is the power to suspend the privilege of the writ of habeas corpus in case of rebellion or invasion, when required by public safety. This effectively sanctions the arrests and seizures without warrants issued by the courts. When the privilege of such writ is suspended, the court is not obliged to order the release of a person if it finds him to be illegally detained.[19]

The third is the power to place the Philippines or any part thereof under martial law, if the emergency brought about by the rebellion or the invasion requires the taking of stronger measures for ensuring the safety of the nation. This is the strongest Commander-in-Chief power of the President since it poses the most severe threat to civil liberties. A declaration of martial law is a "warn[ing] to citizens that the military powers

[18] Statement of retired Supreme Court Justice Vicente V. Mendoza
[19] Ibid.

have been called upon by the executive to assist in the maintenance of law and order, and that, while the emergency lasts, they must, under pain of arrest and punishment, not commit any acts which will in any way render more difficult the restoration of order and the enforcement of law."[20]

Proclamation No. 1017, on its face, is a call by the President for the armed forces to prevent or suppress all forms of lawless violence. The Proclamation is neither a suspension of the privilege of the writ of habeas corpus nor a declaration of martial law. For one, the Proclamation does not expressly say so. Second, the Proclamation does not categorically allege the existence of rebellion or invasion which endangers public safety. Lastly, and most importantly, the Proclamation was not reported to by the President to the Congress as required by the Article VII, Section 18 of the Constitution.

Being neither a suspension of the privilege of the writ of habeas corpus nor a declaration of martial law, Proclamation No. 1017 cannot be used to justify acts such as warrantless arrests and seizures,[21] ban on public assemblies and the imposition of curfew,[22] take over of media agencies and press censorship,[23] "hamletting",[24] or the issuance of Presidential decrees[25] – all of which violate the Constitution, and which can only be exercised when there is a valid declaration of martial law or suspension of the privilege of the writ of habeas corpus.

B. Blanket prohibition on rallies, with or without permit

Right to peaceably assemble

Citizens have the fundamental and basic right to air their insights to authorities and political leaders on matters involving public concern and interest for the protection of their civil, political, and economic rights. No

[20] Ibid, citing West Willoughby, Constitutional Law of the United States 1591 (2d Ed. 1929), quoted in *Aquino vs. Ponce Enrile*, 59 SCRA 183 (1974) (Fernando, J., concurring)
[21] Contrary to Art. III, Sec. 2 of the Constitution.
[22] Contrary to Art. III, Sec. 4 of the Constitution.
[23] Contrary to Art. III, Sec. 4 of the Constitution.
[24] Contrary to Art. III, Sec. 6 of the Constitution.
[25] Contrary to Art. VI, Sec. 1 of the Constitution.

less than Article III, Section 4 of the 1987 Constitution provides that "(n)o law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the Government for redress of grievances."

Further, the Universal Declaration of Human Rights ("UDHR"), which the Philippines ratified, promotes respect for the rights to freedom of expression and freedom of peaceful assembly and association, thus:

> "Section 19. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.
>
> Section 20. Everyone has the right to freedom of peaceful assembly and association."

The Philippines is likewise a signatory to the International Convention on Civil and Political Rights (ICCPR), which states, in part:

> "Article 19 (1) Everyone shall have the right to hold opinions without interference; (2) Everyone shall have the right to freedom of opinion and expression; this right includes freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
>
> *Article 21. The right of peaceful assembly shall be* recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others."

The right to assemble, as guaranteed by the Philippine Bill of Rights as well as the International Bill of Rights, is not subject to prior restraint. Hence, it may not be conditioned upon the prior issuance of a permit or authorization from government authorities.[26]

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[26] Human Rights Advisory "On the No Permit, No Rally Policy", CHR-A-2003-004, Commission on Human Rights, 20 September 2006.

Public Assembly Act of 1985

The ban on rallies imposed pursuant to Proclamation No. 1017 was premised on the cancellation of all permits to rally. The permit requirement for the holding of a rally, otherwise known as the "no permit, no rally" policy, is embodied in Batas Pambansa Blg. No. 880 (B.P. 880) or the Public Assembly Act of 1985, to wit:

> "**Section 4.** *Permit when required and when not required* - A written permit shall be required for any person or persons to organize and hold a public assembly in a public place. However, no permit shall be required if the public assembly shall be done or made in a freedom park duly established by law or ordinance or in private property, in which case only the consent of the owner or the one entitled to its legal possession is required, or in the campus of a government-owned and operated educational institution which shall be subject to the rules and regulations of said educational institution. Political meetings or rallies held during any election campaign period as provided for by law are not covered by this Act.
>
> x x x
>
> **Section 12.** *Dispersal of public assembly without permit* - When the public assembly is held without a permit where a permit is required, the said public assembly may be peacefully dispersed." (Emphasis supplied)

Even before the enactment of BP 880 in 1985, the issuance by local chief executives of permits or licenses to hold a rally has been recognized. As early as 1948, the Supreme Court ruled in *Primicias vs. Fugoso*[27] and in *Reyes vs. Bagatsing*[28] that "(i)f the assembly is to be held in a public place, a permit for the use of such place, and not for the assembly itself, may be validly required." But the Supreme Court aptly qualified that "...the power of local officials in this regard is merely one of regulation, not prohibition." Retired Supreme Court Justice Vicente V. Mendoza shared a similar view during the Sub-Committee I hearing:

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[27] G.R. No. L-1800, January 27, 1948.
[28] G.R. No. 65166, November 9, 1983.

"**MR. MENDOZA.** Yes, prohibition of rallies. Let us discuss this briefly but separately. Prohibition of rallies under 880, the general rule in 880 is that everyone has the right to assemble in public places...

SEN. BIAZON. Peaceable...

MR. MENDOZA. ... yes, peaceably assemble in public places for the purpose of airing his grievance against the government or in any public forum. And, the exception is the requirement for a rally permit...

SEN. BIAZON. That's correct. Isn't that authority invested *(sic)* in the local government executives?

MR. MENDOZA. It is, it is something like this Mr. Senator. There is a right of every person to assemble in public peaceably. However, the public places known as the public forum is just like any other public forum which other citizens may require to be used by them. So, as a matter of regulation, but not as a matter of prohibition, the government has the power to regulate the time and the place for the holding of public assemblies, and I view 880 as simply as a time, place, manner regulation of the right of assembly. In the same way that you have a public hall free for everybody's use, but no group can simply march there and use the public hall. Someone ahs got to regulate the use because otherwise, groups will all require the use of that public hall at the same time, and, therefore, there has got to be something like a Robert's Rules of Order to regulate the use of streets and public places for public assemblies. This is the justification for 880. It is not a justification for denial, but for regulation of what is otherwise the right of assembly." (Emphasis supplied)

Apparently, the *carte blanche* prohibition on the holding of public assemblies an abuse of the regulatory (and not prohibitory) provisions of B.P. 880. It has been settled in the *Primicias*[29] and *Reyes*[30] cases that the burden of showing the existence of a clear and present danger that would justify an adverse action on the appreciation of the permit lies on the mayor as the licensing authority. To justify such limitation, there must be proof of such weight and sufficiency to satisfy the clear and present danger test. Proclamation No, 1017, save from a mere allegation of a conspiracy to bring down the government, has not given sufficient basis for the cancellation of all permits.

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[29] Supra.
[30] Supra.

Moreover, it is clear from B.P. 880 that it is the mayor or any official acting on his behalf, and not the President or Malacañang who can issue, much less cancel, permits to rally.[31] In fact, the 1987 Constitution only grants the Chief Executive the power of general supervision, and not control over local government units.[32] Hence, the President cannot reverse or modify the acts or decisions of local government units.[33]

In any case, it can be gathered from the accounts of Prof. David and Mr. Llamas that patent violations of B.P. 880 have been committed on 24 February 2006, such as:

a. Policemen in plain clothes arrested Prof. David and Mr. Llamas, contrary to the requirement in Section 10 (a) of B.P. 880 that "(m)embers of the law enforcement contingent who deal with the demonstrators shall be in complete uniform with their nameplates and the units to which they belong displayed prominently on the front and dorsal parts of their uniform...";

b. Policemen were right beside the rallyists in violation of the one hundred (100) meter distance requirement under Section 9 of B.P. 880;

c. The maximum tolerance policy prescribed in Section 10 of B.P. 880 was not applied as the police gave the peaceful marchers along EDSA only five (5) minutes to disperse and even media footages reveal; and

d. Policemen arrested even the ordinary participants of the assembly when B.P. 880 contrary to Section 13 of B.P. 880.

That the protesters do not have a permit to rally (in view of the illegal and blanket cancellation of the permits) does not mitigate the liability of law

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[31] Sec. 6, B.P. 880.
[32] Art. X, Sec. 4, 1987 Constitution.
[33] Cf. Book IV, Chapter 8, Sec. 38, Administrative Code of 1987.

enforcers and their superiors for such violations of B.P. 880 and especially of other human rights abuses such as when injuries are inflicted on them in the course of dispersal. This is the same view expressed by the Commission on Human Rights, to wit:

> "...although dispersal units are allowed to use truncheons and tear gas on the protesters provided that maximum tolerance is exercised before these methods or means of dispersal shall be effected, the reasonableness of the means employed shall depend on the circumstances present during the protest because the allowed means of dispersal must be in consonance and relative with the danger which they seek to prevent.
>
> In the absence of imminent danger to public order, safety, convenience, morals or health, then the use of these means of dispersal is a clear violation of human rights.
>
> Henceforth, whether or not the assembly or rally was effected with permit, then the PNP may be held liable for the commission of any human rights violation on account of the unreasonableness of the manner employed to effect the dispersal."

C. Warrantless arrests

Article III, Section 2 of the Constitution provides:

> "The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized."

Based on this constitutional provision, the rule is that persons may be arrested pursuant to a warrant of arrest issued by a court. Rule 113 Section 5 of the Revised Rules of Court provides for exceptions to the rule, limited to the following:

> "Sec. 5. *Arrest without warrant; when lawful.* – A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

In cases falling under paragraphs (a) and (b) above, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail and shall be proceeded against in accordance with section 7 of Rule 112."

Invitation

The arrest of Prof. David and Mr. Llamas on 24 February 2006 and of Rep. Beltran and Gen. Montaño on 25 February 2006 were effected in the guise of an "invitation". It appears that the "invitation" was not one which can be refused, especially with the treatment (e.g. plainclothes man forcing Prof. David's head into the car) and armed policemen escorting the "invitee".

The practice of inviting individuals is not novel to Philippine law and jurisprudence. Republic Act No. 7438[34] ("R.A. 7438") considers an "invitation" for questioning as custodial investigation, such that the invited individual is entitled to the rights provided by the Act (e.g. right to counsel, to be informed of the offense charged, etc.). It bears emphasis that R.A. 7438 does not sanction any kind of "invitation". In fact, it recognizes the possible liability of the "inviting" officer for the "invitation", thus:

"Section 2. Rights of Persons Arrested, Detained or under Custodial Investigation; Duties of Public Officers. –

XXXX

[34] An Act Defining Certain Rights of Person Arrested, Detained or under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officers, and Providing Penalties for Violations thereof.

> 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."

Also, in *People vs. del Rosario,*[35] the Supreme Court, recognized the practice of issuing an "invitation", but held that the invitation of the accused del Rosario was unlawful as the policemen who arrested him had no personal knowledge of the commission of the offense.

Continuing Offense

The notion of a continuing crime initially started as a concept for determining whether or not a particular offense was committed within the territorial jurisdiction of the trial court or to determine whether a single crime or multiple crimes were committed where the defense of double jeopardy is raised.[36] However, the ruling in *Garcia-Padilla vs. Enrile*[37] promulgated during martial law created a new continuing crime doctrine, to wit:

> "x x x From the facts as. above narrated, the claim of the petitioners that they were initially arrested illegally is. therefore, without basis in law and in fact. The crimes of insurrection or rebellion, subversion, conspiracy or proposal to commit such crimes, and other crimes and offenses committed in the furtherance on the occasion thereof, or incident thereto, or in connection therewith wider Presidential Proclamation No. 2045, are all in the nature of **continuing offenses** which set them apart from the common offenses, aside from their essentially involving a massive conspiracy of nationwide magnitude. Clearly then, the arrest of the herein detainees was well within the bounds of the law and existing jurisprudence in our jurisdiction. x x x"

> 2. The arrest of persons involved in the rebellion whether as its fighting armed elements, or for committing non-violent acts but in furtherance of the rebellion, is more an act

[35] G.R. No. 127755, April 14, 1999.
[36] Position Paper of the Free Legal Assistance Group on Proposed Senate Resolution 461, 13 March 2006.
[37] G.R. No. 61388, April 20, 1983

of capturing them in the course of an armed conflict, to quell the rebellion, than for the purpose of immediately prosecuting them in court for a statutory offense. The arrest, therefore, need not follow the usual procedure in the prosecution of offenses which requires the determination by a judge of the existence of probable cause before the issuance of a judicial warrant of arrest and the granting of bad if the offense is bailable. Obviously, the absence of a judicial warrant is no legal impediment to arresting or capturing persons committing overt acts of violence against government forces, or any other milder acts but equally in pursuance of the rebellious movement. The arrest or capture is thus impelled by the exigencies of the situation that involves the very survival of society and its government and duly constituted authorities. If killing and other acts of violence against the rebels find justification in the exigencies of armed hostilities which is of the essence of waging a rebellion or insurrection. most assuredly so in caw of invasion, merely Seizing their persons and detaining them while any of the contingencies continues cannot be less justified. In the language of *Moyer vs. Peabody*,[38] cited with approval in *Aquino, et al. vs. Ponce Enrile*,[39] the President "shall make the ordinary use of the soldiers to that end that he may kill persons who resist, and, of course, that he may use the milder measure of seizing the bodies of those whom he considers to stand in the way of restoring peace. Such arrests are not necessarily for punishment, but are by way of precaution, to prevent the exercise of hostile power." (Emphasis supplied)

The continuing crimes doctrine was reiterated and even expanded in the consolidated cases in *Umil vs. Ramos*[40] to include sedition and inciting to sedition.

On 22 September 1992, Congress repealed Republic Act No. 1700 or the Anti-Subversion Law. The late Senator Raul Roco, who sponsored the repealing law, explained that the repeal of the Anti-Subversion Law removes the basis for warrantless arrests upheld in the *Umil* case, thus:

"The added reason, Mr. President, why we want to repeal R.A. 1700 is, *it removes the legal bases for the ruling in the case of Umil.* In that ruling, Mr. President, the Chamber may recall the case of *Roberto Umil v. Fidel V. Ramos*, where it held that warrantless arrests can be implemented. And the basis was because the Anti-Subversion Law, when violated,

[38] 212 U.S. 416. 417.
[39] 59 SCRA 183 (1974)
[40] G.R. No. 81567, July 9, 1990.

constitutes a continuing crime, and so long, therefore, as one is accused of being a member or a leader of the communist party or its military arm, theoretically, one does not need a warrant of arrest or have that person arrested.

By *repealing* RA 1700, Mr. President, as revived by the executive orders, *we shall remove the basis for these warrantless arrest."*[41]

xxx

"We hope the passage of Senate Bill No. 508 will finally do away with warrantless arrests."[42] (Emphasis supplied)

The Free Legal Assistance Group reported that to their knowledge, since the repeal of the Anti-Subversion Law in 1992, "no one was arrested without a warrant on the basis of either the *Garcia-Padilla* or *Umil* rulings."[43]

Yet in upon the issuance of Proclamation No. 1017, the continuing crimes doctrine justifying the warrantless arrest of Reps. Beltran and Ocampo was resurrected. The case of Rep. Beltran was even based on an antiquated warrant of arrest issued during martial law. When the PNP realized that the warrant no longer had efficacy in view of the dismissal of the case against Rep. Beltran, the police came up with a new charge of inciting to sedition. Again, their idea proved to be not so bright after all since the crime of inciting to sedition is within Rep. Beltran's parliamentary immunity. Hence, foreseeing the dismissal of the inciting to sedition case, the police then pursued rebellion charges against Rep. Beltran and found refuge in the holding that rebellion is a continuing offense, justifying a warrantless arrest.

In the case of Rep. Ocampo, the rebellion charge filed against him and four (4) other members of the House of Representatives was used to justify the attempts to arrest them.

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[41] RECORD OF THE SENATE, VOL. I, No. 15-B, p. 520, *emphasis supplied.*
[42] RECORD OF THE SENATE, VOL. I, No. 15-B, p. 524, *emphasis supplied*
[43] Position Paper of the Free Legal Assistance Group on Proposed Senate Resolution 461, 13 March 2006.

IV. CONCLUSION AND RECOMMENDATIONS

The Sub-Committee is convinced that the *carte blanche* prohibition on the holding of rallies as declared by Presidential Chief of Staff Mike Defensor in the morning of February 24, 2006, is patently illegal, being in clear violation of Article 4, Sec. 3 of the 1987 Constitution, which states:

> "Section 4. No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances."

Proclamation No. 1017 did not authorize the President or her agents to make a complete ban on the holding of all rallies, in blatant disregard of the constitutionally-guaranteed right of the people to expression and to peaceably assemble. Coming as it did during the 20th anniversary of the EDSA People Power uprising of 1986, an event celebrated annually for the past 20 years through peaceful assemblies, the irony cannot be overlooked.

The warrantless arrests effected in the guise of "invitations" and under the continuing offense doctrine are likewise palpably illegal, being violative of guarantees under Article III, Sections 1 and 2 of the Constitution, which provides:

> "Section 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.
>
> Section 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized."

Importantly, the Sub-Committee condemns the underhanded scheme to arrest and continuously detain Rep. Beltran. The initial reliance

on the antiquated and invalid warrant of arrest, the treacherous and unconstitutional filing of sedition charges and later (after all the previous efforts to arrest Rep. Beltran have failed), the filing of a rebellion case against Rep. Beltran are reprehensible, and all point to the devious plot of the government to illegally curtail their liberty. In the same vein, the Sub-Committee denounces the threats to arrest, and later, the obviously after-thought and malicious charges against Rep. Ocampo, along with the so called "Batasan 5" as a tyrannical means not only to repress their constitutionally guaranteed right to liberty, but also to illegally prevent them from performing their sworn duties as public officials, representing the people. The resurrection of a 21-year old Marcos era warrant of arrest against Rep. Beltran is to say the least bizarre. It is a glimpse into what overzealous law enforcement agents are capable of doing to achieve certain ends. It is proof that fair or foul methods are acceptable provided their questionable objectives are met. These methods cannot be countenanced by any means.

Moreover, the Sub-Committee strongly denounces the abuses committed to citizens attending peaceful assemblies in the name of Proclamation No. 1017, in utter disregard of the safeguards provided under B.P. 880, thus:

> **"Section 9.** *Non-interference by law enforcement authorities* - Law enforcement agencies shall not interfere with the holding of a public assembly. However, to adequately ensure public safety, a law enforcement contingent under the command of a responsible police officer may be detailed and stationed in a place at least one hundred (100) meter away from the area of activity ready to maintain peace and order at all times.
>
> **Section 10.** *Police assistance when requested* - It shall be imperative for law enforcement agencies, when their assistance is requested by the leaders or organizers, to perform their duties always mindful that their responsibility to provide proper protection to those exercising their right peaceably to assemble and the freedom of expression is primordial. Towards this end, law enforcement agencies shall observe the following guidelines:
>
> (a) Members of the law enforcement contingent who deal with the demonstrators shall be in complete uniform with their

nameplates and units to which they belong displayed *prominently on the front and dorsal parts of their uniform* and must observe the policy of "maximum tolerance" as herein defined;

(b) The members of the law enforcement contingent shall not carry any kind of firearms but may be equipped with baton or riot sticks, shields, crash helmets with visor, gas masks, boots or ankle high shoes with shin guards;

(c) Tear gas, smoke grenades, water cannons, or any similar anti-riot device shall not be used unless the public assembly is attended by actual violence or serious threats of violence, or deliberate destruction of property.

x x x

Section 13. *Prohibited acts* - The following shall constitute violations of this Act:

(a) x x x Provided, however, That no person can be punished or held criminally liable for participating in or attending an otherwise peaceful assembly;"

The Sub-Committee, thus, recommends that the policemen, agents and officials behind the ban on the rallies, illegal dispersals and illegal arrests, as well as those who violated the aforementioned safeguards provided by the B.P. 880, be criminally, civilly and administratively charged in the proper court or tribunal for their illegal acts. We cannot allow such acts to go unpunished coming as it does with the pronouncement by no less than the President herself, immediately after the lifting of the state of national emergency, that she is willing to reimpose a state of national emergency should the same become necessary. The immediate filing of charges against these erring police officers is necessary if we are to prevent a repeat of these acts found to be in reckless disregard of our laws and the Constitution.

Based on the foregoing, the Sub-Committee further recommends the following:

1. Revisit the "no permit, no rally policy" in Section 4 of B.P. 880, which effectively contravenes the constitutionally-guaranteed freedom of assembly (Article III, Section 4 of the 1987 Constitution), and look into possible amendments to the said law;

2. Amend Section 2 of Republic Act No. 7438 to define what constitutes a mere "invitation" for questioning, recognized under the same Act and existing jurisprudence, as opposed to an arrest which requires a valid warrant;

3. Provide for a legislative definition of what constitutes a "continuing offense" and clearly provide the offenses covered thereunder;

4. Amend the definition of the crime of sedition, conspiracy to commit sedition and inciting to sedition under Articles 139 to 142 of the Revised Penal Code; and

5. There is a need for an enabling law for the implementation of Article XII, Section 17 on the declaration of a state of national emergency as the same is not self-executory.

In parting, this Committee is deeply disturbed by the illegal acts that flowed from the declaration of a state of national emergency. These are acts that have no place whatsoever in a constitutional democracy such as ours wherein civil and political rights are protected by the Constitution. The Constitution of 1987 is a document born out of the struggle against dictatorship and authoritarian rule. It places a premium on the civil and political rights of every citizen. These very same rights protected by the Constitution were wantonly and recklessly disregarded by agents of the state. The Rule of Law and our Constitutional Democracy have been diminished by these acts perpetrated by officials and agents of the state in pursuance of the objectives of Presidential Proclamation 1017. We cannot expect our citizens to adhere to and have a healthy respect for the Rule of Law and the Constitution, if those who have sworn to uphold and defend the same, government officials and their agents, are the first to disregard

them. In punishing the guilty we, in a sense, restore that which had been diminished by such illegal acts and we warn agents and officials of the state that we, as a nation, do not look kindly upon those who would so brazenly violate our people's constitutionally guaranteed rights.

Respectfully submitted,

SEN. FRANCIS N. PANGILINAN
Chairman

Members:

SEN. EDGARDO J. ANGARA **SEN. JUAN PONCE ENRILE**

SEN. RICHARD J. GORDON **SEN. ALFREDO S. LIM**

SEN. JAMBY A. S. MADRIGAL **SEN. RAMON BONG REVILLA JR.**

SEN. MAR. A. ROXAS **SEN. MANUEL B. VILLAR JR.**

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SEN. AQUILINO Q. PIMENTEL JR.
Minority Leader

SEN. JUAN M. FLAVIER
President Pro-Tempore

SEN. FRANKLIN M. DRILON
Senate President

COMMITTEE CONCURRENCE

Pursuant to section 24, second paragraph of the Rules of the Senate, the undersigned chairman and members of the Committee on Justice and Human Rights and the Committee on Public Services who are not members of the Sub-Committee I hereby give their concurrence to the herein Committee Report for submission to the Senate for approval.

JOKER P. ARROYO
Chairman

MEMBERS

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