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Tuesday, August 26, 1986

OPENING OF SESSION

At 9:57 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT: The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT: Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT: Everybody will please remain standing for the Prayer to be led by the Honorable Teodulo C. Natividad.

PRAYER

MR. NATIVIDAD: Bathalang makapangyarihan sa lahat, kaming Iyong mga anak ay muling dumudulog sa Iyo upang minsan pa iluhog na makamtan ng bawat isa sa amin ang liwanag at talsik ng talinong higit kailanman ngayon namin kailangan upang aming mabalangkas sa itinakdang panahon ang isang Saligang Batas na tunay na kakatawan sa pangarap, adhikain at pithaya ng aming lahi.

Hinihiling namin sa Iyo Panginoon na papag-alabin Mo ang aming mga puso sa tunay na pag-ibig sa aming bayan at nang sa gayon, lubos naming maiwaksi ang anumang pansariling hangarin at nang ang aming naisin sa bawat saglit ay ang kapakanan at tunay na kabutihan lamang sa aming bayan.

Isinasamo rin namin na ang anomang hidwaan ng diwa ay huwag sanang maging daan upang kami ay ngayon pa magkawatak-watak at sa halip, sa ibabaw ng anumang pagkakaiba ng palagay, ang umiral ay ang tunay na kapatiran at pagmamahalan ng magkakalahing ngayon ay inatangan ng maselan at mabigat na saguting ugitin ang daong ng kapalaran ng aming bayan hanggang sa mga susunod pang panahon.

Subaybayan Mo kami at patnubayan sa lahat ng saglit at huwag Mo po kaming itulot na mabulid sa kinusa o hindi man ng pagpapabaya sa aming tungkulin.

Bathalang makapangyarihan, loobin Mo po sana na mamayani sa aming lahat ang kababaang loob at kami ay makapagpatuloy ng pagpapalitan ng kuru-kuro na siyang tanging paraan upang makatas ang katuwiran at katotohanan na hindi kami patatangay sa simbuyo ng aming damdamin.

Ito po ang taimtim naming hinihiling sa pamamagitan ni Hesukristong Panginoon namin. Siya Nawa.

ROLL CALL

THE PRESIDENT: The Secretary-General will call the roll.

THE SECRETARY-GENERAL, reading:

Abubakar Absent Monsod Present

Alonto Present Natividad Present

Aquino Present[*] Nieva Present

Azcuna Absent Nollado Present

Bacani Present Ople Absent

Bengzon Present Padilla Present

Bennagen Absent Quesada Absent

Bernas Present Rama Present

Rosario Braid Present Regalado Present

Brocka Absent Reyes de los Present

Calderon Present Rigos Present

Castro de Present Rodrigo Present

Colayco Present Romulo Present

Concepcion Present Rosales Absent

Davide Present Sarmiento Present[*]

Foz Present Suarez Absent

Garcia Present[*] Sumulong Present

Gascon Present Tadeo Absent

Guingona Present Tan Present

Jamir Present Tingson Present

Laurel Present Uka Present

Lerum Present Villacorta Absent

Maambong Present[*] Villegas Present

The Secretariat is in receipt of official advice of absence of the Honorable Efrain B. Treñas who is indisposed and who has a viral infection.

The President is present.

The roll call shows 33 Members responded to the call.

THE PRESIDENT: The Chair declares the presence of a quorum.

MR. CALDERON: Madam President.

THE PRESIDENT: The Assistant Floor Leader is recognized.

MR. CALDERON: I move that we dispense with the reading of the Journal of yesterday's session.

THE PRESIDENT: Is there any objection that we dispense with the reading of the Journal of yesterday's session? (Silence) The Chair hears none; the motion is approved.

APPROVAL OF JOURNAL

MR. CALDERON: Madam President, I move that we approve the Journal of yesterday's session.

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; the motion is approved.

MR. CALDERON: Madam President, I move that we proceed to the Reference of Business.

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Communications, the President making the corresponding references:

COMMUNICATIONS

Communication from the Movement for the Recognition and Enrichment of Philippine Ethno-Linguistic Groups, UP Diliman, Quezon City, signed by Mr. Benjie Cesar Y. Pepito, seeking to put the ethnic groups on equal terms by presenting the following for consideration: (1) Denationalize Tagalog and halt the compulsory teaching of Pilipino in all levels; (2) Leave the choice for medium of instruction to the regions or provinces; (3) Filipino has to be an amalgamation of the native languages; (4) Filipino should not be detrimental to the native languages; and (5) Abolish the Institute of National Language.

(Communication No. 629 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from the Philippine Peace and Solidarity Council, 11 Cardinal Street, St. Jude Subdivision, Novaliches, Quezon City, signed by its National Chairman, Emilio A. de Peralta, urging the Constitutional Commission to put an end to the U.S. military bases in the Philippines.

(Communication No. 630 — Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from three hundred five students, teachers and employees of the PWU and Sr. Mary Joseph of Assumption, San Lorenzo Village, seeking to include in the new Constitution a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 631 — Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Letter from Mr. Fred M. Magbanua, Jr. and three other officers of the Christian Leaders Alliance of the Philippines, PO Box 1, Valenzuela, Metro Manila, submitting a position paper recommending the adoption of a

provision on the inviolability of the separation of the Church and the State.

(Communication No. 632 — Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Letter from Mr. Delfin R. Manlapaz of 1707 E. Rodriguez, Sr. Blvd., Cubao, Quezon City, submitting his observations entitled "National Development and the New Constitution" which seek to clarify questions of nationalization and protectionism and the role of transnational on the subject of Philippine development.

(Communication No. 633 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: I would like to correct an inaccuracy or misimpression about the listing of registered speakers last Saturday. Some Commissioners have made the charge that I jumped over Commissioner Aquino to favor Commissioner Jamir on that very controversial Section 15 of the Article on National Economy and Patrimony. Fortunately, I do not have the habit of jumping over ladies and I have a documentary evidence that Commissioner Jamir was ahead of everybody, followed by Commissioners Regalado, de los Reyes and Aquino.

I would like also to correct the misimpression that I have been unfair during the deliberations. I have been trying to be very fair, as it is possible, to be fair in a body where people are normally loquacious and effervescent; and I do not think I have to defend that. That is all, Madam President.

Now, may I call on Commissioner Bengzon to state the schedule.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Good morning, Madam President.

In yesterday's Journal and in my recollection, Commissioner Monsod moved that the period of amendments on the Article on National Economy and Patrimony be left open for discussion until noon today because, although there was an amendment of Commissioner Ople that was withdrawn, there was another amendment which was supposed to have been presented by Commissioner Garcia. There was a previous reservation for the presentation of that amendment, but Commissioner Garcia, I believe, was not ready yesterday afternoon and, therefore, that reservation holds. The decision of the body was to allow Commissioner Garcia to present the amendment this morning.

Likewise, for the clarification of everyone, it was also decided that if there are any other amendments, they could be presented today until noon. At this moment, Madam President, there are no amendments that have been presented on the Article on National Economy and Patrimony, and Commissioner Garcia is not yet here. Therefore, the next item on the agenda is what was taken up also yesterday. I move for the approval on Third Reading of the Article on the Executive, but there were some clarifications made. The Third Reading did not go through because of one clarification that has to be made by Commissioner Regalado. And I believe that Commissioner Regalado is now ready with that clarification which would be to the satisfaction, I believe, of Commissioner de Castro.

Madam President, I ask that Commissioner Regalado be recognized for the clarification to be made on the Article on the Executive, after which we will be ready to vote on Third Reading on the Article on the Executive. After we

vote on Third Reading on the Article on the Executive, we can discuss the additional report of the Committee on Constitutional Commissions proposing a Commission on Human Rights, because Commissioner Villacorta has requested, through the Secretary-General, that the committee report on human resources be deferred for Thursday. In deference to that request, I suggest that we move back the discussion on human resources until Thursday afternoon.

So, at the moment, Madam President, may I request that Commissioner Regalado be recognized to make his clarification on the Article on the Executive.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: Thank you, Madam President.

Madam President, yesterday there was a little question about the correctness of the provisions of Section 4 of the Proposed Resolution No. 517 appearing on page 2 thereof, which we ascertained to have been correctly noted by Commissioner de Castro after we consulted the record of the proceedings.

The error there arose from the fact that there had been a renumbering of the articles so that our notes did not correctly reflect the changes that were effected. I am referring, Madam President, to page 2, second to the last paragraph of the article, which now states:

The person having the highest number of votes shall be proclaimed elected, but in case two or more shall have an equal and highest number of votes, one of them shall forthwith be chosen by the vote of a majority of all the members of the Congress.

Now the question that arose was whether the Members of Congress would be voting jointly or separately.

Going over the transcript of the proceedings of August 1, 1986 in connection with the inquiries of the President and Commissioner Monsod, and the answers of Commissioner Bernas, it is clear that what was intended here and approved was that the vote shall be by the two Houses of Congress voting separately.

Madam President, since after all these were actually taken up in the proceedings on August 1, but unfortunately not so indicated in the committee report which has been prepared for approval on Third Reading, I am, therefore, moving, by way of a "now for then" amendment, meaning a nunc pro tunc amendment, to include what was actually taken up, but which was overlooked in the reformulation of this resolution so that the last two lines will read as follows: "forthwith be chosen by the vote of a majority of all the members of BOTH HOUSES OF the Congress, VOTING SEPARATELY." This is to eliminate once and for all any question which after all is clarified by the transcript of the proceedings of August 1, 1986 as explained therein by Commissioner Bernas.

THE PRESIDENT: Is there any objection to this particular manifestation of Commissioner Regalado? (Silence) The Chair hears none; let the proper correction be made in accordance with the minutes.

MR. REGALADO: The other question on the Article on the Executive was already resolved yesterday, the matter on the transposition of a portion of Section 17 to the Article on Local Governments.

THE PRESIDENT: Are we now ready to vote on Third Reading on the Article on the Executive?

MR. MAAMBONG: Madam President, just a point of inquiry to Commissioner Regalado. I am also a member of the committee. I just want to find out if we are now prepared to put the exact paragraph and section numbers in Section 10, because right now we have blank paragraphs and sections. If we are not yet prepared, we can do it some other time.

MR. REGALADO: Madam President, we still do not have the Third Reading copy of the Article on the

Legislative. I understand there might be some changes in it, so there may also be a renumbering of sections. That is why I prefer to keep it blank in the meantime. Anyway, the moment the Article on the Executive is approved on Third Reading, we can just put the corresponding section number.

MR. MAAMBONG: That is all right, Madam President. It is purely a mechanical act anyway. I was just inquiring whether we are ready or not.

Thank you.

NOMINAL VOTING ON PROPOSED RESOLUTION NO. 517 ON THIRD READING
(Article on the Executive)

MR. RAMA: Madam President, I move that we vote on Third Reading on Proposed Resolution No. 517.

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; the motion is approved.

Printed copies of Proposed Resolution No. 517 were distributed on August 7, 1986 pursuant to Section 27, Rule VI of the Rules of the Constitutional Commission.

Voting on the proposed resolution on Third Reading is, therefore, in order.

The Secretary-General will read the title of the proposed resolution.

THE SECRETARY-GENERAL. Proposed Resolution No. 517, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON THE
EXECUTIVE DEPARTMENT.

FIRST ROLL CALL

THE PRESIDENT: The body will now vote on this proposed resolution, and the Secretary-General will call the roll.

THE SECRETARY-GENERAL, reading:

Abubakar Rosario Braid Yes

Alonto Yes Calderon Yes

Aquino No Castro de Yes

Azcuna Colayco Yes

Bacani Yes Concepcion Yes

Bengzon Yes Davide Yes

Bennagen Foz Yes

Bernas Yes Garcia

MR. GARCIA: I am voting no to the Article on the Executive. May I explain my vote, Madam President.

THE PRESIDENT: The Commissioner will please proceed.

COMMISSIONER GARCIA EXPLAINS HIS VOTE

MR. GARCIA: I am registering a negative vote on the Article on the Executive because of the fact that Section 18 of the article vests the President with the power to declare martial law without the concurrence of Congress, which I believe was a very important provision that we had discussed extensively, especially in our public hearings. We also have had our experience regarding martial law.

For me, the major difficulty here lies in the fact that once martial law is declared, it leads to a further accumulation of power and militarization of politics which I discussed during the debates on the floor. I believe this article is very important but because of this Section 18, which I consider a very important provision, I would like to register a negative vote.

THE SECRETARY-GENERAL, reading:

Gascon

COMMISSIONER GASCON EXPLAINS HIS VOTE

MR. GASCON: Madam President, I would like to explain my vote. Honorable Members of the Commission, I vote in the negative because I do not believe that there are enough safeguards that will prevent what had occurred in September 1972. The present article allows a unilateral declaration of martial law by the Chief Executive without the concurrence of the legislative. What the present article provides is a mere submission of a report to the Congress by the Chief Executive. Although Congress may revoke such declaration, such act of revocation must await the probable opportune time when, after the declaration of martial law had occurred, many of the critical members of government, including those Members of Congress and the judiciary might have already been arrested and imprisoned. With the help of the military, the whole country might have been brought to total submission. What then is the use of the provision that the declaration of martial law does not supplant the functioning of the civil courts or legislative assemblies? The events of September 1972 are still too clear in our minds. The deletion of the phrase "imminent danger thereof" does not preclude the declaration of martial law. A despotic Chief Executive may declare martial law with no evidence of actual invasion or rebellion at all. All he needs is just a few hours to complete the scenario I have just described and thus perpetuate himself in power. Fellow Commissioners, in our consultations with the people there prevailed an overwhelming support for prior concurrence by the legislature before the Chief Executive can declare martial law. The past 14 years saw a trampling of their human rights and suppression of their basic freedoms. The people have spoken very clearly. Should we again leave the declaration of martial law to the discretion of any one individual and, thus, open the doors to the tyranny and oppression of our people?

Thank you, Madam President.

THE SECRETARY-GENERAL, reading:

Guingona Yes Natividad Yes

Jamir Yes Nieva Yes

Laurel Yes Nollado Yes

Lerum Yes Ople

Maambong Yes Padilla

Monsod Yes

COMMISSIONER PADILLA EXPLAINS HIS VOTE

MR. PADILLA: Madam President, I regret that in the final formulation of the Article on the Executive, particularly Section 18, on the Commander-in-Chief provision, the term "or imminent danger thereof," which appears in both the 1935 and 1973 Constitutions, has been deleted in the suspension of the privilege of the writ of habeas corpus. I believe that for such suspension, imminent danger of invasion or rebellion would be sufficient ground therefor. I also regret that the distinction between the suspension of the privilege of the writ of habeas corpus and the proclamation of martial law has not been provided for, since Section 18, as approved, identifies or confuses these two stages as one based only on actual invasion or actual rebellion. I believe there should be a distinction between the three stages mentioned in the Commander-in-Chief provision: 1) suppression of lawless violence, 2) suspension of the privilege of the writ of habeas corpus, and 3) proclamation of martial law. But notwithstanding these observations, Madam President, I vote in the affirmative.

THE SECRETARY-GENERAL, reading:

Muñoz Palma Regalado Yes

Quesada Reyes de los

Rama Yes

COMMISSIONER DE LOS REYES EXPLAINS HIS VOTE

MR. DE LOS REYES: Madam President, I vote yes. The Article on the Executive clearly provides safeguards against the emergence of a potential tyrant, without however reducing the Executive to inutility.

THE SECRETARY-GENERAL, reading:

Rigos Yes Rodrigo

COMMISSIONER RODRIGO EXPLAINS HIS VOTE

MR. RODRIGO: Madam President, I would like to state that I am happy about the provision in Section 18 that Congress shall "vote jointly" if it wants to revoke the proclamation of martial law or the suspension of the privilege of the writ of habeas corpus or to extend the same.

Voting "jointly" is not done in a bicameral legislature. The two Chambers may meet jointly but they vote separately. And so, this provision sticks out like a sore thumb in our Constitution. It is a very awkward provision. It is in the record that I tried to remedy this by presenting an amendment that the House alone be empowered to do this. After all, there are matters which are left to the Senate alone, like the approval of treaties. However, my amendment was voted down. But while I am unhappy about this provision, I am happy about the provisions of the rest of the chapters, and so I vote yes.

THE SECRETARY-GENERAL, reading:

Romulo Yes Sarmiento

Rosales

COMMISSIONER SARMIENTO EXPLAINS HIS VOTE

MR. SARMIENTO: Madam President, I am disturbed by one of the sections of this article, and this is with respect to the presidential proclamation of martial law. I was thinking all along that this Commission shall provide a safeguard for this presidential proclamation, and that is, the concurrence of Congress before the President can proclaim martial law. Unfortunately, this was not so provided in the Constitution. The committee voted against its own recommendation.

Madam President, martial law is a bane to our country; it spelled the doom to many of our rights. I was under the impression that we will provide a safeguard under this new atmosphere. Because of the absence of this safeguard, Madam President, I vote against the Article on the Executive.

THE SECRETARY-GENERAL, reading:

Suarez Tan No

Sumulong Yes Tingson

Tadeo

COMMISSIONER TINGSON EXPLAINS HIS VOTE

MR. TINGSON: Madam President, I vote yes because in this Article on the Executive, we are, as I see it, providing an office for the Chief Executive who is strong enough to lead the nation, responsible enough to satisfy the country's needs, and accountable enough to give a good account of his accomplishments to the people.

THE SECRETARY-GENERAL, reading:

Treñas Villacorta

Uka Yes Villegas Yes

SECOND ROLL CALL

THE PRESIDENT: The Secretary-General will conduct a second call for those who have not registered their votes.

THE SECRETARY-GENERAL, reading:

Abubakar Ople

Azcuna Muñoz Palma

Bennagen

THE PRESIDENT: My vote is yes.

THE SECRETARY-GENERAL, reading:

Quesada Tadeo

Rosales Treñas

Suarez Villacorta

APPROVAL OF PROPOSED RESOLUTION NO. 517 ON THIRD READING

(Article on the Executive)

THE PRESIDENT: The results show 32 votes in favor, 5 against and no abstention.

Proposed Resolution No. 517, which seeks to incorporate in the new Constitution an Article on the Executive, is approved on Third Reading.[*]

MR. RAMA: Madam President, I ask that the chairman of the Steering Committee be recognized to give us the schedule this morning.

THE PRESIDENT: Commissioner Bengzon is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 539

(Article on the Constitutional Commissions — Commission on Human Rights)

PERIOD OF SPONSORSHIP AND DEBATE

MR. BENGZON: I move that we consider Committee Report No. 37 on Proposed Resolution No. 539 as reported out by the Committee on Constitutional Commissions and Agencies.

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; the motion is approved.

Consideration of Proposed Resolution No. 539 is now in order. With the permission of the body, the Secretary-General will read only the title of the proposed resolution without prejudice to inserting in the record the whole text thereof.

THE SECRETARY-GENERAL: Proposed Resolution No. 539, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION THE PROVISIONS ON THE COMMISSION ON HUMAN RIGHTS.

(The following is the whole text of the proposed resolution per C.R. No. 37.)

COMMITTEE REPORT NO. 37

The Committee on Constitutional Commissions and Agencies, to which was referred Proposed Resolution No. 365, introduced by Hon. Garcia and Sarmiento, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION THE NATIONAL POLICE COMMISSION, THE NATIONAL POLLUTION CONTROL COMMISSION, THE JUDICIAL COMMISSION, THE COMMISSION ON GOOD GOVERNMENT, AND THE COMMISSION ON HUMAN RIGHTS AS ADDITIONAL INDEPENDENT CONSTITUTIONAL COMMISSIONS,

has considered the same and has the honor to report it back to the Constitutional Commission of 1986 with the recommendation that Proposed Resolution No. 539 prepared by the committee, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION THE PROVISIONS ON THE COMMISSION ON HUMAN RIGHTS,

be approved in substitution of Proposed Resolution No. 365, with the Committee on Constitutional Commissions and Agencies and Hon. Garcia and Sarmiento as authors thereof.

Respectfully submitted:

(Sgd.) Cirilo A. Rigos (Sgd.) Vicente B. Foz

Vice-Chairman Chairman

Committee on Constitutional

Commissions and Agencies

(Sgd.) Yusup R. Abubakar (Sgd.) Roberto R. Concepcion

(Sgd.) Crispino M. de Castro (Sgd.) Alberto M.K. Jamir

(Sgd.) Christian S. Monsod Teresa F. Nieva

Florenz D. Regalado (Sgd.) Rustico F. de los Reyes, Jr.

Francisco A. Rodrigo (Sgd.) Bernardo M. Villegas

(Sgd.) Decoroso R. Rosales

PROPOSED RESOLUTION NO. 539

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION THE PROVISIONS ON THE
COMMISSION ON HUMAN RIGHTS.

Be it resolved as it is hereby resolved, by the Constitutional Commission in session assembled to incorporate in the new Constitution, the following provisions:

ARTICLE _____

THE CONSTITUTIONAL COMMISSIONS

E. The Commission on Human Rights

SECTION 1. There shall be an independent Commission on Human Rights composed of a Chairman and two Commissioners, who shall be natural-born citizens of the Philippines, at least thirty-five years of age and members of the Bar for at least ten years.

The Chairman and the Commissioners shall be appointed by the President for a term of seven years without reappointment. Of the Commissioners first appointed, one shall hold office for seven years, another for five years, and the third for three years. Appointment to any vacancy shall only be for the unexpired portion of the term of the predecessor.

SECTION 2. The Commission on Human Rights shall have the following powers and functions:

- (1) Investigate all forms of human rights violations committed by public officers, civilian and military authorities, or by private parties;
- (2) Issue subpoena and subpoena duces tecum to compel the attendance of any party to its proceedings or the production of materials and documents, with the power to cite for contempt for violations thereof in accordance with the Rules of Court promulgated by the Supreme Court of the Philippines;
- (3) Provide appropriate legal measures for the protection of human rights of all persons within the Philippines, including provisions for legal aid services for indigent persons whose human rights have been violated or need protection; and
- (4) Establish a continuing program of education and information to propagate the primacy of human rights.
- (5) Perform such other duties and functions as may be fixed by law.

MR. BENGZON: I ask that Commissioners Foz and Sarmiento be recognized to sponsor the committee report.

THE PRESIDENT: Commissioners Foz and Sarmiento are recognized, and the members of the committee are requested to occupy the front desk.

MR. FOZ: Madam President, may we request that copies of the proposed resolution be distributed to the Members so that they can follow our sponsorship of the resolution.

SPONSORSHIP REMARKS OF COMMISSIONER SARMIENTO

MR. SARMIENTO: This resolution was sponsored by Commissioner Garcia and this humble Representation and approved by the committee as shown by Committee Report No. 37.

My fellow Commissioners, the creation of a Human Rights Commission is a timely innovation in our Constitution. It has come at a time when the recognition of the need to protect and promote human rights is at its height. Fifteen years of abuses of fundamental rights and freedoms have awakened us to the need for a comprehensive program for the promotion, protection and respect for human rights. Such a program can best be formulated and undertaken by a specialized agency which is independent from the three main branches of government and equipped with the necessary powers and functions to carry out its programs. Moreover, a Commission on Human Rights falls squarely into the list of priorities of the present government and dovetails with the commission's innovative work on human rights. As envisioned, the commission will investigate human rights abuses committed by any person and arising from any source, whether caused by private practices inimical to human rights or resulting from government policies, rules and regulations or the implementation thereof. In relation thereto, it can recommend to the President or to the appropriate agencies the various courses of action, from the prosecution of guilty parties to the indemnification and adoption of measures for protection, and the review and repeal of oppressive rules, policies or even laws. In addition, the commission will conduct education and public information campaigns with a view to increasing public awareness of human rights issues consistent with its objective of promotion and inculcation of respect for human rights. Hopefully, with a permanent constitutional body in pursuit of long-term human rights goals through a continuing program, we may be able to attain what very few Third World countries have been able to. The establishment of a Human Rights Commission in our Constitution will be the symbol of our commitment to justice and peace, and the promotion and protection of human dignity.

SPONSORSHIP REMARKS OF COMMISSIONER GARCIA

MR. GARCIA: I would simply like to add just one point. I think an outstanding feature of this probable Commission on Human Rights is the fact that it will help establish a program of education and information to propagate human rights. In other words, we envision the prevention of human rights violations in the future where we have a citizenry that is convinced that it must uphold its basic rights; that it must defend its basic rights because it knows what its rights are, in the first place. Also, for those who must uphold the law, they will be educated in a sense; for example, regarding the treatment of prisoners and detainees and the proper procedures according to the due process of law. So this responsibility that will be given to the Human Rights Commission will, in a way, resolve and prevent, rather than cure what is unjust after it has been committed. Secondly, I believe it is also a very important fact that because we have now won our basic rights as a people, we must also, in a sense, realize that there are many other peoples in other parts of the world who have not yet won their rights. One of the other areas of education is precisely to show the different forms and ways of how the human rights of other peoples are violated in other parts of the world. And we can also have a people who will be conscious of these violations and perhaps contribute to the protection of human rights wherever they are violated, because human rights have no color, no creed, no nationality and no boundaries.

MR. SARMIENTO: Before we entertain questions, we wish to express our thanks to the following members of the committee who have encouraged and supported us: Commissioner Rigos, vice-chairman; Commissioner Foz, chairman; Commissioners Abubakar, Monsod and Rosales; our beloved Chief Justice Roberto Concepcion; Commissioners Jamir, de los Reyes and Villegas.

MR. FOZ: Madam President.

THE PRESIDENT: Commissioner Foz is recognized.

MR. FOZ: The committee is now ready to entertain questions from the floor regarding the committee report on the proposed resolution.

MR. RAMA: I ask that Commissioner Nollado be recognized.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: Thank you, Madam President.

I would like to propound a few questions of the chairman and the members of the committee. I understand that, based on the committee report, the powers of the Commission on Human Rights are principally investigative and recommendatory in nature. Am I right?

MR. SARMIENTO: Yes, the Commissioner is right.

MR. NOLLEDO: And, therefore, after the investigation is conducted, recommendations are made. Can the Commissioner give us the coverage of these recommendations?

MR. SARMIENTO: These recommendations will include, among others, the filing of appropriate criminal actions to parties guilty of human rights violations.

MR. NOLLEDO: And who will then prosecute these cases, the ordinary fiscals?

MR. SARMIENTO: The appropriate government agencies, like the City Fiscal's Office and the prosecutory arm of the government, will undertake this prosecution.

MR. NOLLEDO: Am I right if I say that the prosecutors will be assisted also by the Commission on Human

Rights?

MR. SARMIENTO: We are not foreclosing that possibility. It is possible that they can work together for the prosecution of various crimes against human rights.

MR. NOLLEDO: I will expect the Commission on Human Rights to hold its office in the greater Manila area. How about violations in different parts of the country, say, in Mindanao or the Visayas? How will these cases be investigated? Will the parties have to come to Manila?

MR. SARMIENTO: That is a very good question, Madam President. We discussed that question actually during our committee hearings. We are thinking of expanding the commission to cover the various islands of the country so that the services will be rendered to victims of human rights violations in all parts of the country. So, possibly, extension offices will be created in the three islands of the country.

MR. FOZ: At the same time, Madam President, the commission will be within its competent authority to deputize even private lawyers or public officers in the investigation of certain cases or incidents which might have taken place or might have happened in some far-flung parts of the country necessitating, therefore, the assistance of other public or private groups. For instance, I have in mind the Integrated Bar of the Philippines' chapters in areas where violations of human rights may have been committed. So public, as well as private, assistance may be secured by the proposed Commission on Human Rights in the investigation of such cases.

MR. SARMIENTO: In addition to the IBP, we can ask the services of human rights organizations, lawyers' organizations, for instance, the Protestant Lawyers' League, which is an organization of lawyers scattered throughout the country. We have also the Free Legal Assistance Group which has a membership of about 200 lawyers scattered throughout the country. We have also the group known as MABINI, Movement of Attorneys for Brotherhood, Integrity, Nationalism which can also assist the Commission on Human Rights. We have also the CLASP, Citizens Legal Assistance Society of the Philippines, of Vice-President Laurel. So we can ask the services of these various lawyers' organizations.

MR. NOLLEDO: May I please be enlightened on the nature of the Commission on Human Rights? Is it a purely administrative body or is it a quasi-judicial body? I will follow this up with another question.

MR. SARMIENTO: It is a quasi-judicial body, not a purely administrative body. If we look at the functions enumerated under Section 2, we will notice that it is not merely an administrative body but a quasi-judicial body.

MR. NOLLEDO: Therefore, am I right if I conclude that the Rules on Evidence will not be strictly followed?

MR. SARMIENTO: Yes, Madam President.

MR. NOLLEDO: With respect to page 2, line 9, it says here that one of the functions of the Commission on Human Rights is to provide appropriate legal measures for the protection of human rights of all persons within the country, including provisions for legal aid services for indigent persons, et cetera. I would like to know the coverage of this legal aid. Will it cover only cases filed before the commission, or will it likewise cover cases filed before the appropriate courts or tribunals?

MR. SARMIENTO: Madam President, it will cover cases that are being handled by the commission. And if there are cases pending before other tribunals that would involve human rights violations, I think it is within the province of this commission to provide its assistance.

MR. NOLLEDO: My last question, Madam President, is with respect to page 2, line 12 — "Establish a continuing program of education information to propagate the primacy of human rights." Did the Commissioner ever recommend that human rights be a part of the curriculum in high school or college?

MR. GARCIA: Yes, in fact, that has already been discussed in the committee hearings, and that is one of the proposals we would like to make.

MR. NOLLEDO: Thank you, Madam President.

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: I would like to ask a few questions. Will this Commission on Human Rights be one of the constitutional commissions under Article XII which we already approved?

MR. SARMIENTO: Yes, Madam President.

MR. RODRIGO: There are now three constitutional commissions — Commission on Civil Service, Commission on Elections and Commission on Audit.

MR. SARMIENTO: Yes, Madam President.

MR. RODRIGO: And the intention is to add this as a fourth constitutional commission?

MR. SARMIENTO: Yes, Madam President.

MR. RODRIGO: Just as a matter of procedure, have we not already approved Article XII on Second Reading?

MR. FOZ: Yes, Madam President.

MR. RODRIGO: Have we approved it on Third Reading also?

MR. FOZ: Yes, but the reservation was made with regard to the initial provision which enumerates the constitutional commissions in the Constitution to the effect that this provision will be subject to additional constitutional commissions that the body may later on wish to approve and include in the constitutional draft, Madam President.

MR. RODRIGO: So there was that reservation. Is that on record?

MR. FOZ: Yes, Madam President.

MR. RODRIGO: I do not remember. However, minus that reservation, the procedure would be to ask for a reconsideration of the approval of this article. I think it was approved also on Third Reading.

MR. FOZ: Yes. But the record will bear us out that there was such a reservation. I remember it very distinctly that that was made clear before we even voted on Second Reading on the draft — on the common provisions, which relates to the three constitutional commissions. The reservation was made, Madam President.

MR. RODRIGO: So if the present proposal is approved, then Section 1 of Article XII, which reads: "The constitutional commissions shall be the Civil Service Commission, the Commission on Elections and the Commission on Audit," should likewise be amended.

MR. FOZ: Yes, it should be amended to include the Commission on Human Rights, Madam President.

MR. RODRIGO: Since the Commission on Human Rights will come under Article XII, it will be subject to the common provisions under Article XII.

MR. FOZ: That is right, Madam President.

MR. RODRIGO: One of the provisions of Article XII is:

No member of the constitutional commission shall, during his tenure, hold any other office or employment or engage in the practice of any profession.

So, if this provision were to be followed, Atty. Diokno cannot practice his profession if he becomes the chairman of the Commission on Human Rights. It is to be remembered that he is in the active practice of law.

MR. FOZ: Madam President, all the appointees will have to be subject to the same qualifications and disqualifications as provided in the common provisions.

MR. RODRIGO: So let us say Atty. Diokno, who is now the chairman of the Presidential Committee on Human Rights, remains or becomes the chairman or even a member of that committee, he will have to give up his law practice, else he has to reject or resign the position as chairman of the Human Rights Commission.

MR. FOZ: That would be the consequence, if he accepts an appointment in the proposed Commission on Human Rights.

MR. RODRIGO: By the way, may I know who is the vice-chairman of the commission now?

MR. SARMIENTO: The vice-chairman is Justice J.B.L. Reyes, who is now the acting chairman of the Committee on Human Rights in the absence of Commissioner Diokno.

MR. RODRIGO: So does the Commissioner think we can get real able lawyers with the caliber of Atty. Diokno and Justice J.B.L. Reyes, if they come under this prohibition that they cannot practice their profession?

MR. SARMIENTO: Madam President, we have, I believe, many able lawyers. I think years of handling human rights cases during the dark days of martial law have produced lawyers who are capable, able, dedicated and committed to the promotion and protection of human rights. Aside from these lawyers, there are many retired Justices of the Supreme Court who can provide their wisdom, their advice and their assistance. Chief Justice Concepcion will always be there to give his tips in the handling of these cases.

MR. RODRIGO: Yes, I know that there are many human rights lawyers. I handled a few cases on human rights myself. But then, Atty. Diokno and Justice J.B.L. Reyes are very useful as practicing lawyers, defending victims of violations of human rights. But from the answer of the committee to the queries of Commissioner Nollado, it seems that a human rights lawyer who is very active in defending human rights cases will be a mere investigator and advisor once he becomes a member of the commission.

MR. SARMIENTO: Madam President, when I mentioned able and dedicated lawyers, I was not referring to lawyers who are purely active in the practice of law. There are also academicians, members of the academy who do their researching and counseling, and I think they will be effective members of this commission.

MR. RODRIGO: Thank you very much.

MR. SARMIENTO: Thank you, Madam President.

MR. RAMA: I ask that Commissioner Nieva be recognized, Madam President.

THE PRESIDENT: Commissioner Nieva is recognized.

MS. NIEVA: Madam President, I am one of the sponsors of this proposed resolution. When this was first presented, a request was made that I be one of the sponsors. I immediately acceded because I thought that this was a very vital commission that we would need especially in view of our experience during these past 15 years. However, this is the first time that I really have had a chance to look at the entire article and I just want one or two clarifications. In this Section 2, line 22, what would the term "private parties" encompass?

MR. SARMIENTO: Madam President, "private parties" include those persons who are not in any way connected with the government, who is not a military officer or a military personnel, but just a layman, an ordinary person.

MS. NIEVA: Would this refer, therefore, to parties or groups like the sects that we have, those "Tadtad groups" and all of those who are also guilty of human rights violations, including even the NPAs? What I mean are the rightists, the leftists or whoever they are, who we know are not innocent of human rights violations.

MR. SARMIENTO: It is correctly stated, Madam President.

MS. NIEVA: So, therefore, this would include all groups — the leftists, rightists or the centrists. Therefore, the scope of this Human Rights Commission would be much wider than the present Commission on Human Rights?

MR. SARMIENTO: Yes, Madam President, that is why it will require a full-time dedication.

MS. NIEVA: I am satisfied with the answers, Madam President, because this has been the subject of debate, especially with the commission of Atty. Diokno. There have been so many protestations that they should also cover both sides to be fair, but that does not lie within their purview. In this Commission as presently constituted, however, the committee is assuring us that it would cover all groups or individuals guilty of human rights violations.

MR. SARMIENTO: The original intention of the proponents was to limit the coverage to military authorities but because of the suggestions and comments we have received from other Commissioners and relying on their collective wisdom, we decided to include private parties.

MS. NIEVA: Thank you very much.

MR. SARMIENTO: Thank you, Madam President.

SR. TAN: May I ask questions of the proponents, Madam President?

THE PRESIDENT: Commissioner Tan is recognized.

SR. TAN: Madam President, there is one thing I notice here and that is the proposed commission is similar to the Diokno Commission, but it is narrower in the sense of recommendatory powers.

MR. SARMIENTO: Yes, there are differences, Madam President. Section 2, paragraph (1), includes private parties; Section 2, paragraph (3), provides appropriate legal measures for the protection of human rights, including provisions for legal aid services; and Section 2, paragraph (4), provides for the establishment of a continuing program of education. These are not some of the functions of the Diokno Commission. We believe that we should add new functions, one of which is a massive information education campaign. So these are new provisions, Madam President.

SR. TAN: Yes, that is great. I guess it was done on the assumption that we will have very many human rights violations which I hope would decrease.

MR. SARMIENTO: Yes, Madam President.

SR. TAN: But what is good about it is that it includes everybody and then it has the education role, but I was wondering why the recommendatory function was limited.

MR. SARMIENTO: Madam President, we limited the recommendatory function because there are other government agencies which can handle this duty. For instance, we have the Office of the City Fiscal, Office of the Provincial Fiscal, the Ministry of Justice, which can very well handle the prosecution of human rights cases. So this proposed commission will work closely with these government entities.

SR. TAN: Thank you.

MR. SARMIENTO: Thank you, Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: Madam President, just a couple of questions. Section 2, paragraph (3), reads:

Provide appropriate legal measures for the protection of human rights of all persons within the Philippines, including provisions for legal aid services . . .

I am struck by the words "within the Philippines." What about those Filipinos who have been persecuted outside the Philippines? We will remember that the long arm of martial law during the time of President Marcos reached out to the United States to persecute, harass and even kill people who were fighting for freedom. So is it the sense of this committee that it would only provide legal measures and legal aid services to the people within the Philippines? Is there any particular reason for this?

MR. SARMIENTO: As the section is phrased and as it is intended, what we have in mind was to provide legal protection to those in the Philippines.

Right now we have so many human rights violations. So the massiveness of these violations would entail much work, much effort, on the part of the members of the commission. So, that alone would consume much of its time, but if the Commissioner has a suggestion that would possibly include human rights violations committed abroad, then he can make it at the appropriate time.

MR. RAMA: Yes. I am thinking that we should delete this phrase "within the Philippines," because we should not stop the Human Rights Commission from making representations, say, with the United States government and sending some kind of legal aid to Filipino citizens who have been persecuted abroad.

MR. SARMIENTO: Madam President, that is a very good suggestion because what we have in mind when the Commissioner raised that point is the case of Commissioner Calderon who was persecuted by Mr. Marcos. We have other members of the government right now who were persecuted during the time of Mr. Marcos. That was why they had to leave the country and seek refuge in other countries.

MR. RAMA: So when the time comes, would the Commissioner be amenable to delete this portion?

MR. SARMIENTO: That will be most welcome, Madam President.

MR. RAMA: Madam President, may I ask that Commissioner Natividad be recognized.

THE PRESIDENT: Commissioner Natividad is recognized.

MR. NATIVIDAD: Thank you, Madam President.

Just a few questions to the august committee.

I am in agreement with this proposal, although I would like to ask whether in the enumeration of the commission's powers and functions it would not be necessary to give the commission visitorial powers because cases of human rights violations are also committed in jails, sometimes in prisons and in detention centers. The commission members may very well be excluded from actually and immediately responding to a complaint by visiting any complainant. So I think the commission should have visitorial powers over any and all jail and detention centers in the Philippines so that at any moment the people will know that if there is a complaint, a representative of this commission may visit any complainant in any detention center and determine his situation.

MR. SARMIENTO: Madam President, coming from an expert on criminology and penology like Commissioner Natividad, that suggestion will be most welcome.

MR. NATIVIDAD: So at the proper time, I would like to propose the addition of the words "VISITORIAL POWERS," so that the Commission should visit any and all detention centers — military or civilian. It should be able to visit any of these jails without securing any permission from any other authority but by virtue of this constitutional fiat.

MR. FOZ: Madam President, although that visitorial power would, I think, be part of the proposed commission's power to investigate, to make it clear that the commission would have such power, I agree with Commissioner Natividad that it should really be spelled out.

MR. NATIVIDAD: It should be spelled out because investigation is understood to include interrogation, interview, questioning and gathering of evidence. But since these detention centers are covered by specific regulations banning visitors at certain times, I think we should spell out that the commission may visit these complainants in these detention centers at any time, if it has a mission order.

MR. FOZ: I agree with the Commissioner, Madam President.

MR. NATIVIDAD: Now the other point that I would like to say is that our draft Constitution has made a very vital innovation in the field of victimology.

Victimology means the study of matters about the victims of crime and abuses. In another part of our Constitution, we have provided compensation for victims of human rights violations and, perhaps, even crimes. Eventually, our government will have to put up a victim compensation system, a victim compensation board or a victim compensation of fine to implement this constitutional provision of compensating victims of human rights violations and even of violent crimes. I propose that these functions be located in the enumeration of functions of the Human Rights Commission, because this commission would be the best judge as to what damages have been suffered by the victims.

MR. SARMIENTO: I think that suggestion can well be covered by Section 2(5) which reads: "It shall perform such other duties and functions as may be fixed by law."

MR. NATIVIDAD: But this is a complex duty. It has to be spelled out because we have to establish the parameters here as practiced in other countries where these are spelled out in specific terms: How much do we pay? What is the ceiling? When should they be paid? When should the application be made? What are the evidences that are necessary to support such a claim? What do we do if there is insurance? These things are very complex in nature as implemented in other countries which give satisfaction to people who are victims of crimes. So, I do not think we should mention these in a general statement. The Commissioner should specify it and, I think, it enriches this constitutional provision.

MR. SARMIENTO: The Commissioner can introduce an amendment to cover his suggestions at the proper time.

MR. NATIVIDAD: Yes. In the investigation of the performance of these investigative powers, what does the Commission on Human Rights exercise? Are these merely fact-finding powers or are police powers being used in the investigation?

MR. SARMIENTO: The investigative powers would cover fact-finding and police powers. This is an all-embracing term.

MR. NATIVIDAD: The commission is going to exercise police powers?

MR. SARMIENTO: Yes.

MR. NATIVIDAD: It is on record now. It is not merely fact-finding but the investigators of this commission also shall be exercising police powers insofar as the violation of human rights is concerned.

MR. SARMIENTO: Yes.

MR. NATIVIDAD: I would like to clarify the parameters of these powers. It is a common case now that prisoners are being detained in prisons because of the failure of the judiciary to hear their cases complemented by the fact that they cannot put up the bail for their freedom. They are being detained in prisons way beyond the period of the highest penalty that they can be punished with. May they appeal to the commission to be set free?

MR. SARMIENTO: Yes. To me, that is a violation of the constitutional right to a speedy trial and, therefore, it is considered a violation of human rights. So, these detainees can appeal to the commission for appropriate action.

MR. NATIVIDAD: Yes. This is because this particular case involves detention. But let us take the case of those who are victims of crimes. In the pursuit of the prosecution of their cases they suffer extreme inconvenience such as being unaware of the status of their case. They are not informed by the prosecution agency of the government whether their case is postponed or not. They are not protected from harassment of their family or their friends. They sometimes are on the verge of giving up their case because of these harassments. Would this constitute a violation of their rights within the purview of the powers of this commission?

MR. SARMIENTO: They can seek protection and guidance from the commission. If we look at Section 2(3), we have this provision:

Provide appropriate legal measures for the protection of human rights of all persons within the Philippines.

So, my humble submission is that legal measures would cover giving advice, assistance and counseling to victims of the crimes the Commissioner has mentioned.

MR. NATIVIDAD: I am thankful for that because I would like that to happen.

Let us take another example. There is a complaint that the victims are being harassed. They are being threatened; in fact, they have been previously maltreated. The powers of the commission are merely to request the military or the police to protect them. That is what Commissioner Tan referred to as "recommendatory." Would it not be advisable for the commission to have the power to direct the security forces of our country to provide protection for victims of human rights rather than just to rely on the good graces and humanitarian hearts of these people to provide the protection for the said victims?

MR. SARMIENTO: I think that will be a humane expansion of the functions of the Commission on Human Rights that is contributing beneficially to the idea of creating a Commission on Human Rights.

MR. NATIVIDAD: That is why I am trying to draw the answers from the committee because these victims of human rights complain that they are being harassed and they do not know where to go to. They cannot even go to the courts to obtain protection from certain units or individuals or from police or military units. They do not know anybody in the police or military forces. But now they have a new hope because of the existence of this Commission on Human Rights. But if the commission merely requests that they be given protection, the military police unit will then say: "That is not in our priority because we have many other jobs and missions to accomplish." So, may I draw the answer from the committee? Does the committee think that it may be advisable that in cases of this nature, the commission, being a quasi-judicial body, may direct the police forces to provide protection for them? The commission should not request and not merely recommend but directly provide security forces for a certain period of time as in other countries.

MR. SARMIENTO: Commissioner Rigos as well as Commissioner Garcia are nodding their heads. I think I can speak in behalf of the committee that the functions would cover the Commissioner's suggestion.

MR. NATIVIDAD: Can the members of the commission enjoin people from harassing people? Can the members of the commission, under the enumeration of its powers here, not only provide protection for complainants but may also enjoin people and say, "Stop violating the rights of these people"? Can they do that under this enumeration of duties?

MR. SARMIENTO: If that is necessary to protect human rights, why not?

MR. NATIVIDAD: Could we not specify this more in an amendment — that they may enjoin; they may protect? What I have been saying is if these vital functions — to protect them directly and to enjoin people from continuing the commission of violation of human rights — will these still need a little amendment?

MR. SARMIENTO: Regarding the enumeration of additional functions, I will confer with the members of the committee — the chairman and the vice-chairman.

MR. NATIVIDAD: Yes.

MR. SARMIENTO: But personally I will fully endorse the Commissioner's suggestion.

MR. NATIVIDAD: I am interested in seeing that it is not merely a paper tiger but something that has got teeth to bite by enjoining people not to continue in the commission of violation of human rights and by directing protection to people.

Thank you.

MR. RAMA: I ask that Commissioner de Castro be recognized.

THE PRESIDENT: Commissioner de Castro is recognized.

MR. DE CASTRO: Thank you, Madam President.

Members of the committee and the honorable chairman, I think there is a little typographical error in Committee Report No. 37. I appear as one of the sponsors; I am not. Also, I am not a member of the committee, so I will request that my name be deleted.

On the qualifications of the chairman and the commissioners of the Commission on Human Rights, one should have been a member of the Bar for at least 10 years. Can any other person other than a lawyer not be a chairman or member of this commission?

MR. SARMIENTO: Since this work will involve legal issues and legal matters, we deemed it best that the chairman should be a lawyer, and so with the members. But my personal feeling is that, if there are laymen or persons who are qualified to be human rights advocates like nuns, priests and psychologists, may we not include them?

MR. DE CASTRO: So, from the Commissioner's answer, not only members of the Bar can be a chairman of the commission.

MR. SARMIENTO: But that is my personal position; I still have to confer with the committee for decision.

MR. FOZ: Actually, that was the feeling of the committee regarding these qualifications but we would welcome suggestions on this portion of this provision of the draft.

MR. DE CASTRO: Thank you.

In regard to the qualifications for chairman and members of a constitutional commission, it is stated: "persons of integrity, of probity, of independence of mind, etc." And yet in this committee report, we find that a chairman or a commissioner can just be a member of the Philippine Bar with at least 10 years of practice. Whether he has the probity or the integrity is of no issue. Is that the meaning of this qualification?

MR. SARMIENTO: Maybe at an appropriate time, we can welcome suggestions like the inclusion of words like "men of integrity, honesty and independence of mind." So, we will welcome any suggestion in that regard.

MR. DE CASTRO: The more basic question I have in my mind is: Why constitutionalize the Human Rights Commission? Will it not be better if they work under the executive?

MR. SARMIENTO: As I have stated in my sponsorship speech, there is a need for a specialized body to handle human rights violations. During martial law, we had many cases of human rights violations. Even until now, we have cases of salvaging, disappearances, hamletting which are committed all throughout the country. So, because of the massiveness of these human rights violations, I think there should be a body that will conduct the investigation and set appropriate actions to stop the commission of these human rights violations.

MR. DE CASTRO: Cannot the executive, even without constitutionalizing this body, choose the right people with the necessary expertise to conduct the necessary investigation all over the Philippines?

MR. GARCIA: Precisely, one of the reasons why it is important for this body to be constitutionalized is the fact that regardless of who is the President or who holds the executive power, the human rights issue is of such importance that it should be safeguarded and it should be independent of political parties or powers that are actually holding the reins of government. Our experience during the martial law period made us realize how precious those rights are and, therefore, these must be safeguarded at all times.

Secondly, as I mentioned earlier, we also felt that it was important to educate the people because human rights, in a sense, cannot be given. People have to know what these rights are and they have to safeguard, uphold and even defend these rights. This can only be done if there is a continuing human rights education program. So, those are the basic reasons why we would propose that this be in the form of a constitutional commission that would be above the changes of fortunes of political parties in this country.

MR. SARMIENTO: May I just volunteer the information that in New Zealand they have a constitutional body known as the Commission on Human Rights. However, its specific function is limited to providing education and conducting information campaign. But as we know, New Zealand is different from our country. We have our own peculiarities.

Here in our country we have violations more massive than those committed in New Zealand. So, I think there is a need for this Commission on Human Rights and for the expansion of its functions.

MR. DE CASTRO: There is no question that there is a need for this commission. My question is: Why constitutionalize it? When we include this commission under the executive department, then the Commissioner will mention politics, and so on. When we talk of the presidency especially in our proposed constitutional provision especially of a President who shall have no reelection whatsoever, we do not talk about a politician but of a statesman who shall look after the welfare of his country.

So when a President creates this commission and shall be under him, he should look at it as the protector of this country.

MR. GARCIA: May I answer that point, Madam President?

THE PRESIDENT: The Commissioner may proceed.

MR. GARCIA: I would like to state this fact: Precisely we do not want the term or the power of the Commission on Human Rights to be coterminous with the President, because the President's power is such that if he appoints a certain commissioner and that commissioner is subject to the President, therefore, any human rights violations committed under that person's administration will be subject to presidential pressure. That is what we would like to avoid — to make the protection of human rights go beyond the fortunes of different political parties or administrations in power.

MR. DE CASTRO: I am pursuing the question of Commissioner Natividad and the cases he gave as examples which necessitated the provision for security. Would it not be better if the commission were under the executive because the armed forces and the police are under the President and it would be easier to provide the necessary security if it were the President who will order them?

MR. GARCIA: Could I answer that? That is true but, at the same time, if the President solely had that power, the President could also withhold doing that function because it would be subject again to the discretion or the judgment of the President.

Here we have a commission entrusted with the task of protecting human rights; and, therefore, if it so deems and judges necessary that there will be military protection against the victims of harassment, then that commission could provide that protection, independent of what the administration in power thinks, because normally they would be sympathetic with their armed forces.

MR. DE CASTRO: Can security be provided through the military and the police? I asked so, because the one who will provide the protection is certainly the police or the military.

MR. GARCIA: Yes.

MR. DE CASTRO: Suppose the military would say, "We are too busy; we have plenty of problems other than to provide security."

MR. GARCIA: Precisely, the Commission on Human Rights would be empowered to direct those military officers concerned to give protection to human rights victims or to victims of harassment or to towns which are subjected to some kind of difficulties because of special circumstances in the area.

MR. DE CASTRO: There is no question about the authority that will be given the commission to direct the armed forces or the police to provide security. So, in case they say that they are too busy and they do not have the right people, we better leave it to the executive. It will be very different if it is the President telling them since he is the Commander-in-Chief.

MR. GARCIA: But if we empower this commission, we would, therefore, give it authority to direct the armed forces and to give priority to their tasks. The armed forces could drop this assigned task if they are really busy in doing other things or a new detachment can be sent to do this job of giving protection for human rights victims. On the other hand, they could drop other tasks in order to perform this newly assigned duty.

MR. SARMIENTO: In addition to that, the commission is not precluded from securing the assistance of the President. As I stated before, it will work closely with various government entities.

MR. DE CASTRO: We talk of the victims of human rights and they will have to complain to this commission, is that right?

MR. GARCIA: Yes.

MR. DE CASTRO: So, this commission can investigate. What then will be the work of the ombudsman which we

created to investigate all complaints received from all sectors? There will be two bodies now: The Commission on Human Rights and the Ombudsman.

MR. MONSOD: If the Commissioner still recalls, by virtue of the Regalado amendment, we included a phrase in the section on the functions of the ombudsman to cover human rights offenses that are civil and political in nature. But during the discussion, we also said that there was a pending proposal for a Commission on Human Rights, and the understanding at that time was that, should the body agree to set up this Commission on Human Rights, we will adjust the section on ombudsman to remove the overlapping of functions.

MR. DE CASTRO: Why should we create two bodies when one body is enough?

MR. GARCIA: This commission has a very precise task. Its international instruments would be the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the recently concluded Declaration of Torture of 1985.

The commission has a very specific function which is the protection of civil and political rights. Due to the experience of 14 years of martial rule, we want to ensure that hereafter human rights in this country are not violated and, therefore, provide this very specific body with the function to ensure the safeguarding of these rights.

MR. MONSOD: May I also add that even in the discussion on the ombudsman, we recognize that the scope of the functions of the ombudsman was already very wide, even without the inclusion of the functions that are now being proposed for the Commission on Human Rights, but we wanted a fall-back position in case there was no approval of the Commission on Human Rights separately.

MR. DE CASTRO: The matter of investigating all complaints all over the Philippines is certainly broad. Very soon we will have to create a commission on graft and corruption because that is a very broad subject matter which affects the very social foundation of our country.

MR. SARMIENTO: That is why we have this ombudsman to protect the people, the purpose of which is to protect our people from grafters and to promote efficiency and prevent mismanagement.

MR. DE CASTRO: Also, to investigate all types of complaints which will include complaints against violation of human rights.

MR. SARMIENTO: The investigation of human rights will be conducted by the Commission on Human Rights. Matters involving graft and corruption, matters that will prevent waste and mismanagement will be handled by the critic and watchdog, the ombudsman, and this was clearly stated and explained by the honorable Commissioner, Justice Colayco.

So if we give that additional power, then we will be expanding the powers of the ombudsman to a point that it will be ineffective.

MR. DE CASTRO: Let us go to the police power which Commissioner Natividad mentioned.

When there is a violation of human rights and an investigation is to be conducted, would this investigation be some sort of an invitation for that violator? How would the investigation be conducted?

Suppose we want to investigate "A" on the complaint of "B" for violation of human rights, how will we investigate "A"?

MR. SARMIENTO: If we look at Section 2(2), we have this provision:

That the Commission shall have the power to issue "subpoena" and "subpoena duces tecum" to compel the attendance of any party to its proceedings.

This would involve proceedings that will cover investigations and inquiries.

MR. DE CASTRO: Let us proceed with the police power we have. When we investigate, certainly it will take a little time. Perhaps that man under investigation could be detained for a period of six hours but when the case is serious, the investigation could last for about 18 hours. Does the Commissioner foresee the number of hours for detaining somebody to be investigated?

MR. SARMIENTO: Nobody could depend upon the efficiency of an investigator. But even then, that investigator has to respect the rights of that person who is under custodial interrogations or under any form of investigations, as provided in our Article on the Bill of Rights.

MR. DE CASTRO: So, on the number of hours for investigation, we stated that minor offenses could be investigated within six hours but for serious offenses, could take about 18 hours. Will that be the rule?

MR. SARMIENTO: We have this formula of 6-9-18, within which the case has to be filed with the proper judicial body. But as pointed out by our honorable chairman, this investigation does not partake of a custodial interrogation as traditionally conceived. The purpose of this investigation is to get information which is not in the form of a custodial interrogation conducted by policemen or military personnel.

MR. DE CASTRO: After a short investigation, the man can say, "I want to go home now so I can take care of my child."

MR. SARMIENTO: If no crime has been committed, he will be allowed to go home.

MR. DE CASTRO: Cannot this commission request some other investigative agencies of the governments like the NBI?

MR. SARMIENTO: As I said, the commission will work intimately with various government agencies. It might even invite the Commissioner who is an expert on police matters to assist the commission. Right now, the Presidential Committee on Human Rights is working closely with the NBI and other government agencies.

It might solicit the assistance of an expert on victimology, like Commissioner Natividad and other experts on penology.

MR. DE CASTRO: Under Section 2(1), I can see that about 90 percent or more of the people to be investigated are either the military or the police.

MR. SARMIENTO: No.

MR. DE CASTRO: Has the committee estimated that number?

MR. SARMIENTO: The investigation is not limited to . . .

MR. DE CASTRO: Yes, but in actual practice, it will be about 90 percent of the military or the police. Has the committee thought of that?

MR. SARMIENTO: We have that in mind, but there will also be violations committed by private parties.

MR. DE CASTRO: Yes.

MR. SARMIENTO: Right now we cannot make any numerical percentage.

MR. DE CASTRO: That is about 10 percent.

MR. SARMIENTO: It is hard to make an approximation.

MR. DE CASTRO: If the President is the Commander-in-Chief of the armed forces and the police, then it will be much better if the President is the one who should head this commission.

Will this provision include the NPAs in the investigation?

MR. SARMIENTO: In my reply to the query made by Commissioner Nieva, I answered that the investigation would cover violations committed by the NPAs.

MR. DE CASTRO: How will the NPAs be investigated, by invitation or by subpoena duces tecum?

MR. SARMIENTO: We are now dealing on details. We will leave to the commission the implementation of its task.

MR. DE CASTRO: The members of this commission will have restrictions, like the chairman and members of the COA, the Civil Service and the COMELEC — they cannot practice their profession.

MR. SARMIENTO: Yes.

MR. DE CASTRO: I am now pursuing the question of Commissioner Rodrigo. Section 2(3) states: "Provide appropriate legal measures for the protection," and line 9 reads: "for legal aid services." Is this not practicing the profession when the Commissioner renders legal services?

MR. SARMIENTO: May I reply to that? That is correct, but it is sad to say that during martial law, many of our lawyers would have handled political cases involving the violations of political and civil rights, but many of these indigent persons were deprived of expertise of legal assistance. Hence, it is now the task of this commission to deputize human rights organizations, legal aid organizations to provide legal assistance. I know it is the task of lawyers but we have to be honest enough to admit that some lawyers — I am not saying all — are very selective in handling cases.

MR. DE CASTRO: I am very honest enough when I ask these questions. Let us say that the commissioners and the chairman cannot readily practice their legal profession, but they can deputize people who may practice the profession. Am I correct?

MR. SARMIENTO: What does the Commissioner mean when he says "they may deputize the people who may practice the profession"? Does the Commissioner mean that they may deputize lawyers to handle cases involving human rights violations?

MR. DE CASTRO: Yes, thank you.

MR. SARMIENTO: Thank you.

MR. RAMA: Madam President, I ask that Commissioner Bengzon be recognized.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: Line 10 of Section 1 mentions "members of the Bar for at least ten years." I suppose the Commissioner means not just being a member of the Bar but he should have practiced.

MR. SARMIENTO: Yes.

MR. BENGZON: Hence, a member of the Bar who has not had the practice of law is not qualified under this

article.

MR. SARMIENTO: First, we have to clarify what we mean by practice. What we have in mind are members of the Bar who have been actively engaged in the practice of law, and this would include even law professors.

MR. BENGZON: That is correct. I am not referring to a lawyer who has been in business. That means he has not been in the practice of law.

MR. SARMIENTO: A lawyer who has been engaged in business but is committed to the promotion of human rights can be a member of this commission. So, we should not exempt him from being a member of this commission.

MR. BENGZON: That is precisely my question. Is the Commissioner not limiting this only to a member of the Bar engaged in the practice of law?

MR. SARMIENTO: No.

MR. BENGZON: So, the requirement is that as long as he is a lawyer by profession, he is qualified.

MR. SARMIENTO: Yes.

MR. BENGZON: Section 2(1) states "Investigate all forms of human rights violations," and line 22 includes the phrase "private parties." Is the intention to include the maltreatment of children?

MR. SARMIENTO: That is possible.

MR. BENGZON: No. I am not talking of possibilities. I am talking whether or not it is the intent of the committee. For example, a parent who maltreats his child, would that case be covered by this provision?

MR. SARMIENTO: What we had in mind when we formulated Section 2(1) are violations of civil and political rights. My understanding is that maltreatment of children does not fall within the concept of civil and political rights; so maybe an appropriate government agency can handle this problem.

MR. BENGZON: That is my difficulty because I think there is a hairline distinction. I would like to give the Commissioner another example. Let us take, for example, a lady who was detained as a prisoner and then was molested. Here, a crime against chastity was committed upon her. Who would have jurisdiction over that case?

MR. SARMIENTO: I think that will be covered by the Commission on Human Rights because here we have a detainee whose rights have been violated because she has been molested.

MR. BENGZON: Let us take the example of a lady who was detained for the crime of murder. While she was in jail, she was molested. What the Commissioner is saying is that that particular instance of her being molested falls under the jurisdiction of the Commission on Human Rights. So, in this instance, there will be two cases. The first one is the case against the policeman who might have molested her. This case will fall under the Commission on Human Rights. The second case is a case of murder for which the woman was originally accused of and detained. Am I correct in that?

MR. SARMIENTO: Yes.

MR. BENGZON: All right.

MR. GARCIA: I would simply like to make a clarification on that point. Although maltreatment or the crimes that the Commissioner mentioned may fall within the province of this commission, the primacy of its task must be made clear in view of the importance of human rights and also because civil and political rights have been

determined by many international covenants and human rights legislations in the Philippines, as well as the Constitution, specifically the Bill of Rights and subsequent legislation. Otherwise, if we cover such a wide territory in area, we might diffuse its impact and the precise nature of its task, hence, its effectivity would also be curtailed.

So, it is important to delineate the parameters of its task so that the commission can be most effective.

MR. BENGZON: That is precisely my difficulty because civil and political rights are very broad. The Article on the Bill of Rights covers civil and political rights. Every single right of an individual involves his civil right or his political right. So, where do we draw the line?

MR. GARCIA: Actually, these civil and political rights have been made clear in the language of human rights advocates, as well as in the Universal Declaration of Human Rights which addresses a number of articles on the right to life, the right against torture, the right to fair and public hearing, and so on. These are very specific rights that are considered enshrined in many international documents and legal instruments as constituting civil and political rights, and these are precisely what we want to defend here.

MR. BENGZON: So, would the Commissioner say civil and political rights as defined in the Universal Declaration of Human Rights?

MR. GARCIA: Yes, and as I have mentioned, the International Covenant of Civil and Political Rights distinguished this right against torture.

MR. BENGZON: So as to distinguish this from the other rights that we have?

MR. GARCIA: Yes, because the other rights will encompass social and economic rights, and there are other violations of rights of citizens which can be addressed to the proper courts and authorities.

MR. SARMIENTO: May I just make an additional comment? I think one who has been molested while under detention can be investigated by this commission. The molestation would partake of torture in another form. It could have been done to extract information or to harass.

MR. BENGZON: Is there a legal definition of that particular case? This is the first time I have heard of the molestation of a lady partaking of torture.

MR. SARMIENTO: During martial law, we handled cases involving women detainees who were molested for purposes of extracting information or to harass or to soften up her commitment. So, I think that kind of maltreatment would fall under the scope of the Commission on Human Rights.

MR. BENGZON: Do we have jurisprudence or do we have definitions enunciated by international bodies as to what is the scope of human rights on crimes against chastity which partake of the nature of torture? Do we have any definition of jurisprudence to that effect as the Commissioner has stated? I ask because I know that crimes against chastity are covered by the Revised Penal Code and are prosecuted according to the laws of the land. That is precisely one of my questions.

Let us say a crime against chastity is committed against a person who is detained because of another crime. I am not even talking of the reason for the detention, be it political or not. As I said, the lady who was accused of murder had no money to bail herself out, so she had to stay in jail. The jail keeper molested her. That particular crime that is committed against her is a crime against chastity for which the jail keeper has to be answerable for. Who will investigate the case? Will it be the fiscal, the ombudsman, or the Commission on Human Rights?

What I would like to find out are the parameters of the functions of the commission. When we get into a problem

like where we would have difficulty in delineating it, then we get into the wider scope of every right as stated in the Bill of Rights.

MR. SARMIENTO: As I said, we will give primacy to civil and political rights. Since this will involve other issues, possibly, the commission can work closely with other government agencies to undertake the prosecution of officials guilty of this crime.

MR. BENGZON: The principal reason why I am bringing up all these difficulties, including the first question I have with respect to the maltreatment of children is that these are problems which have to be really spelled out. As the Commissioner said, these have to be coordinated with other agencies of the government. We cannot obviously spell these things out in the Constitution. But how would we word it, if we decide to constitutionalize this commission? How do we word Section 2 in such a way as not to create a confusion or to create an overlapping of functions with the other agencies of government?

MR. SARMIENTO: To avoid confusion, the commission will be authorized to define its functions. I understand that Commissioner Nollado has an amendment to this effect to avoid confusion.

MR. BENGZON: So, we will authorize the commission to define its functions, and, therefore, in doing that the commission will be authorized to take under its wings cases which perhaps heretofore or at this moment are under the jurisdiction of the ordinary investigative and prosecutorial agencies of the government. Am I correct?

MR. GARCIA: No. We have already mentioned earlier that we would like to define the specific parameters which cover civil and political rights as covered by the international standards governing the behavior of governments regarding the particular political and civil rights of citizens, especially of political detainees or prisoners. This particular aspect we have experienced during martial law which we would now like to safeguard.

MR. BENGZON: Then, I go back to that question that I had. Therefore, what we are really trying to say is, perhaps, at the proper time we could specify all those rights stated in the Universal Declaration of Human Rights and defined as human rights. Those are the rights that we envision here?

MR. GARCIA: Yes. In fact, they are also enshrined in the Bill of Rights of our Constitution. They are integral parts of that.

MR. BENGZON: Therefore, is the Gentleman saying that all the rights under the Bill of Rights covered by human rights?

MR. GARCIA: No, only those that pertain to civil and political rights.

MR. BENGZON: On page 2, line 7, will the Commissioner kindly explain the meaning of the phrase "Provide appropriate legal measures for the protection of human rights"? Can they legislate? What can the commission do?

MR. SARMIENTO: What we had in mind when we formulated this provision is the giving of free legal aid services to indigents but without foreclosing the possibility of adding other services and other measures.

MR. BENGZON: So, the phrase "appropriate legal measures" would actually mean services in addition or apart from legal aid?

MR. SARMIENTO: Yes, Madam President.

MR. BENGZON: Such as what?

MR. SARMIENTO: For instance, we have in the Article on Bill of Rights indemnification and rehabilitation of victims of human rights violations. This commission will assist victims to be indemnified and rehabilitated by the

government. So this would be covered by the function of providing appropriate legal measures for the protection of human rights.

MR. BENGZON: Does the committee envision giving quasi-judicial powers to this commission in view of its powers to issue subpoena, subpoena duces tecum, compel attendance, and cite parties for contempt?

MR. SARMIENTO: In reply to a previous query, I said that the commission is a quasi-judicial body with the power to issue subpoena, subpoena duces tecum and the power to compel parties to produce necessary documents.

MR. BENGZON: I still have a lot of difficulties trying to delineate the parameters between the functions of this commission, the complaint functions of the ombudsman and the functions of the ordinary prosecutorial agencies of the government. I hope that the committee can reword Section 2(1).

MR. SARMIENTO: Maybe, at an appropriate time, the Commissioner can introduce his amendment to clarify this matter.

MR. BENGZON: Thank you.

MR. RAMA: Madam President, I ask that Commissioner Tingson be recognized.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: Madam President, may I address this question to Commissioner Rigos, please?

Does he agree that in essence practically all violations of human rights are violations against moral law?

REV. RIGOS: Yes, Madam President.

MR. TINGSON: Does Commissioner Rigos argue that, as somebody said, all the moral ills of the world can be cured by two tablets and the two tablets were those that Moses carried with him on which the Ten Commandments were written?

REV. RIGOS: I believe so, Madam President.

MR. TINGSON: After hearing that, may I then ask the chairman of the committee the following question? There is in our proposed Declaration of Principles, Section 2 which states:

The Filipino people commit themselves to peace, equality and freedom. They renounce war as an instrument of national policy and adopt the generally accepted principles of international law as part of the laws of the land.

We understand, of course, that we are a signatory to the United Nations, that whatever the United Nations draw up especially on the line of human rights, we automatically would say "yes." Is that not the stance of our country along that line?

MR. FOZ: Yes, Madam President.

MR. TINGSON: I am impressed, of course, with this booklet that was distributed to us by the Secretary-General entitled, "Universal Declaration of Human Rights." It is impressive that the Article on Social Justice and other provisions in the Constitution — and some of them have already been approved on Third Reading — have adopted some of the rights therein; for example, mothers and children are entitled to special care and assistance in line with the question of Commissioner Bengzon a while ago. Education shall be free, at least in the elementary and fundamental stages, and compulsory. These are all in our new Constitution now. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in the spirit of brotherhood. Everyone has the right to life, liberty security of person; of course, in the Article on

Social Justice it is provided that no person in our country should be deprived of life and property without due process of law.

What I am trying to ask the committee is: Would it then entertain an important amendment to the effect that this Constitution shall take cognizance of the Universal Declaration of Human Rights and that the adjudication of cases in violation of human rights in this country would be in conformity with said declaration?

MR. FOZ: We might consider it at the proper time.

MR. TINGSON: Thank you very much.

Madam President, when President Aquino assumed office, several leaders of organizations, who are not God-fearing and whose ideology was diametrically opposed to our Christian ideology, were immediately released from prison. For this, she is being criticized up to now because some people believe that these leaders were out to destabilize the government and our country. And yet, our President did not hesitate to release them. Was it because she believes that having been separated from their wives and children for 10 years or so, their rights as human beings were violated and not because she is sympathetic to their political ideology?

MR. SARMIENTO: May I reply to that, Madam President?

MR. FOZ: I think so, Madam President.

MR. SARMIENTO: The President released these persons under detention in the spirit of reconciliation. That was the primary consideration which impelled the President to release these persons.

MR. FOZ: In addition, if I remember right, the release was made because up to the time of their release, there had been no formal charges filed against them in court. In other words, they had been under detention for so many years without the authorities filing formal charges against them. They had long been under detention and they do not even know for what charges they were being held. Only a few of them had charges before the military tribunals.

MR. TINGSON: And that is a serious violation of human rights.

MR. FOZ: Yes, Madam President.

MR. TINGSON: Thank you very much. But may I ask again: will the sponsor entertain an amendment towards mentioning the Universal Declaration of Human Rights?

MR. FOZ: We will consider it.

MR. TINGSON: Thank you.

MR. SARMIENTO: May I just comment on the statements made by Commissioner Tingson? In the Universal Declaration of Human Rights, we have an enumeration of economic, social and cultural rights. Violations of these rights will not be within the domain of the Commission on Human Rights. As we stated a while ago, this commission will give primacy to violations of civil and political rights.

MR. TINGSON: We will so formulate the amendment then as to conform to what the sponsor said a while ago.

MR. SARMIENTO: Thank you, Madam President.

MR. RAMA: Madam President, the next registered speaker is Commissioner de los Reyes.

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Madam President, I am yielding my time to Commissioner Padilla.

MR. PADILLA: Thank you.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: The Aquino government has the Commission on Human Rights under Senator Diokno, and the idea, I think, is to investigate prior or undiscovered violations of human rights during the dictatorial regime of the past administration, particularly tortures of arrested and detained persons, including, of course, disappearances, salvaging, hamletting, et cetera. Is the function of this Commission on Human Rights the same but to be applied to future violations by the regime, whether they be the police, the military, the NPA, public officials or even private persons? Is that the concept or objective of this article?

MR. SARMIENTO: Madam President, the commission has additional functions. The Presidential Committee on Human Rights had limited functions. In this committee report, we added new functions the purpose of which is to investigate all forms of human rights violations, past and present.

MR. PADILLA: But I suppose the past is to be covered by this commission.

MR. SARMIENTO: Yes, Madam President.

MR. PADILLA: Of course, we speak of human rights, and I believe it means personal or individual rights. Many of these are found in the Bill of Rights, but we distinguish them from civil, political, economic, cultural and other rights.

MR. SARMIENTO: Yes, Madam President.

MR. PADILLA: The violations under the Penal Code all fall under human rights.

MR. SARMIENTO: Yes, Madam President. But these violations of the provisions of the Revised Penal Code can be well handled by appropriate government agencies.

MR. PADILLA: That is my point. Does not the sponsor believe that for the adequate protection and repression of violations of human rights, we should encourage a more effective police protection and suppression of crime, and a speedy and efficient administration of justice under the judiciary?

MR. SARMIENTO: Yes, Madam President.

MR. PADILLA: If this protection and even promotion of human rights can be effectively done by an improved police service, as well as efficient judicial system, does not the sponsor believe that this commission, consisting of chairman and two members who will probably be having an airconditioned room in Metro Manila, will not be able to prevent, much less, remedy violations of human rights?

MR. SARMIENTO: But, Madam President, what we have in mind are men who are not confined in air conditioned rooms. The men who will be appointed will have to go to the field; they will have to conduct fact finding investigations; they will have to work with the people to feel their sufferings and pains to understand what human rights violations are. So, in this way, they will be effective human rights advocates.

And I believe this cannot be handled efficiently by police forces considering the massiveness of human rights violations. We will be rendering the policemen inutile or ineffective if they will devote much of their time investigating human rights abuses.

MR. PADILLA: Under paragraph 4, which says: "Establish a continuing program of education and information to propagate the primacy of human rights" would this not be included in the Article on Human Resources which

stresses education?

MR. SARMIENTO: There is a resolution approved by that committee stating that the school curriculum includes giving education to pupils and students about human rights. But I believe that schools should work closely with this commission so that the continuing program of education on human rights will be effective.

MR. PADILLA: It may be a duplication.

On paragraph 3, it says: "legal aid services for indigent persons." I understand there is the Citizen's Legal Aid Office (CLAO) which has a number of deputized lawyers, some of them assigned to each branch of our courts and they are even paid out of government funds. Will this intended commission supplant or delete this office?

MR. SARMIENTO: No, Madam President. As a matter of fact, the commission can deputize this CLAO to handle this kind of cases, but the assistance of CLAO will not be enough, and this is supported by our experience in the past. Considering the number of human rights violations, CLAO does not have the sufficient manpower and facilities to handle this kind of cases. Many of the victims of human rights violations have to go to the IBP and ask the assistance of Chief Justice Concepcion, the MABINI, the FLAG, the PLL and other cause-oriented groups.

MR. PADILLA: That is the point because many lawyers of the CLAO are not helping indigent persons. Many of them are practicing law and they sometimes collect fees in addition to their salaries, and sometimes it is strange that the fiscal represents the prosecution and another government office represents the defense. It is not a very nice equilibrium of judicial representation.

As mentioned by Commissioner de Castro, paragraph 1 says: "Investigate all forms of human rights violations." That seems to be the main function of the ombudsman under Section 12, paragraph 1: "to investigate on its own or complaint by any person, any act that is illegal, unjust, improper or inefficient. And I suppose the word "illegal" can also cover criminal violations of human rights.

MR. SARMIENTO: Madam President, in the speech delivered by Commissioner Colayco, he explained that the function of the ombudsman will be that of critic and watchdog primarily to prevent waste and mismanagement, graft and corruption in our government bureaucracy. He did not contemplate in his explanation all forms of human rights violations like salvaging, disappearances, hamletting, torture, et cetera.

MR. COLAYCO: Madam President.

THE PRESIDENT: Commissioner Colayco is recognized.

MR. COLAYCO: May I give a short reaction. The ombudsman's role is merely to help the ordinary citizen against the inaction of the administrative department of our government, not to take care of human rights violations. That is, I think, spelled out very clearly in the article.

MR. PADILLA: Just one or two more questions. Even under the Aquino administration, we witnessed carnappings done in broad daylight in public view.

MR. SARMIENTO: Madam President, the Vice-President's son, Alexander Padilla, was a victim of carnapping a few days ago.

MR. PADILLA: Yes, and before him, the Minister of National Defense, Juan Ponce Enrile.

Does the sponsor believe that by creating this Commission on Human Rights, such deprivations committed with impunity against the right of property — because that is also a human right, I believe — could be avoided or minimized?

MR. SARMIENTO: I think we can leave to proper government agencies the investigation of carnapping cases and the prosecution of carnappers, otherwise we will be expanding the functions of the Commission on Human Rights. As we said, we will be giving primacy to violations of civil and political rights. Carnapping is properly covered by the Revised Penal Code. And so, we believe that appropriate government agencies can conduct the investigation, like the PC, Metrocom and other law enforcement agencies.

MR. PADILLA: That is my point. If we strengthen and improve our law enforcement agencies, not only in preventing but also in detecting and apprehending, then bringing the culprits to justice, we will have an effective administration of justice. This will be more effective in protecting and promoting human rights rather than the creation of another commission whose functions might duplicate or overlap. I have always said that we should not make our government machinery more bureaucratic. We should simplify, and if possible, reduce unnecessary or overlapping bureaus and offices.

MR. SARMIENTO: I do not think it will overlap with other bureaus and offices. This commission will be a specialized government entity that will handle all forms of human rights violations. As a matter of fact, the President, aware of the magnitude of human rights violations, created a Presidential Committee on Human Rights, specifically to investigate all forms of human rights violations. But as explained by Commissioner Garcia, we want that this commission be beyond fortunes, politics, whims and caprices of politicians so that there is the need for an independent Commission on Human Rights.

MR. PADILLA: The assumption is that the creation of this commission will achieve all those purposes.

MR. SARMIENTO: It may not achieve all these purposes. At least it will minimize all these violations;

MR. PADILLA: Madam President, one of the sponsor's answer to my question contemplates a nationwide agency with many deputized offices or employees all over the country, not only the commissioners. Will that not duplicate the work of the police, the NBI and other governmental offices and then, ultimately, a just, speedy and effective administration of justice under the judiciary?

MR. FOZ: The answer to the first part of the statement, the question of whether the commission would have, let us say, regional branches or offices, is something that should be taken care of by enabling laws or implementing laws, so it is not provided here. But we have said earlier that it is the intention that the commission should be able to deputize public, as well as private, individuals or organizations to be able to really effectively carry out its functions.

THE PRESIDENT: I am sorry we have to interrupt this discussion.

MR. PADILLA: Thank you.

THE PRESIDENT: We will suspend the session for our luncheon break at the South Lounge. During the luncheon, we will have an informal caucus among ourselves.

MR. GASCON: Madam President.

THE PRESIDENT: Commissioner Gascon is recognized.

MR. GASCON: We have a deadline of twelve o'clock for the proposed amendments to the Article on National Economy and Patrimony.

SUSPENSION OF SESSION

THE PRESIDENT: We will take it up during our caucus.

The session is suspended.

It was 12:17 p.m.

RESUMPTION OF SESSION

At 3:21 p.m. the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: There are still interpellators on the Article on Human Rights. May I ask that the chairman and the committee members take their seats in front.

THE PRESIDENT: Commissioners Foz, Sarmiento, Garcia, Monsod and Rigos will please take their seats in front.

MR. RAMA: The next registered speaker, Madam President, is Commissioner Bacani, who is not yet here. So, in the meantime, may I call on Commissioner Romulo to interpellate.

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: Thank you, Madam President.

I would like to pick up on the comment, in answer to Commissioner Nollado, that this is a quasi-judicial body. I believe that it is not because its main function is investigative and there is no adjudicatory function. It is like the Agrava Commission. It has subpoena powers but its main duty is to determine the facts. Would the committee comment on that?

MR. SARMIENTO: I think with that clarification, I will agree with Commissioner Romulo, but as I said this morning, it has more than fact-finding powers. And if Commissioner Romulo will note, aside from conducting investigations, it will also provide appropriate legal measures; it will establish a continuing program of education and perform such other functions as mentioned this morning by Commissioner Natividad.

MR. ROMULO: Yes, in that respect, it is a commission with many functions.

MR. SARMIENTO: Yes.

MR. ROMULO: Just by way of comment, like the others, I am bothered only by the possible multiplicity of overlapping jurisdiction because of the broadness of the term "human rights." But the others have commented on that, and I hope we can find a remedy for it.

MR. SARMIENTO: That is why I think the apprehensions will be eliminated if we state that we will give primacy to civil and political rights, not economic, social and cultural rights. That is to limit the functions of this Commission on Human Rights.

MR. ROMULO: With regard to Section 3, I would just like to call the sponsor's attention to the provision in the Judiciary Act which, if he will recall, was Commissioner Azcuna's proposal for the judiciary; that is, promulgate

rules concerning the protection and enforcement of constitutional rights. So, again, does not the sponsor think that we will have an overlapping of functions?

MR. SARMIENTO: I think that provision in the Article on the Judiciary will be supplementary to the functions of the Commission on Human Rights. I do not see any overlapping or conflict between that article and this article on the Commission on Human Rights.

MR. ROMULO: I do not remember the sponsor's exact reply to Commissioner Bengzon, but for clarity, when we say legal measures, are we empowering the commission to issue rules, regulations or procedures?

MR. SARMIENTO: Yes, Madam President. It will be recalled that the executive order creating the Presidential Committee on Human Rights specified that function empowering the committee to promulgate rules and regulations. This commission would also have that right. The other constitutional commissions have that power. So I do not see any reason why we should deprive this commission with that particular function or power.

MR. ROMULO: Then, perhaps, we should have a stronger verb than "provide."

MR. SARMIENTO: We will welcome the amendment at the proper time.

MR. ROMULO: And, finally, I ask this basic question which I think has already been asked: Assuming that we have an effective Tanodbayan, a reformed judiciary, a reinvigorated prosecutorial service plus a reoriented presidency and armed forces, does the sponsor think we still need a Commission on Human Rights?

MR. SARMIENTO: I think the protection and promotion of human rights will be an ongoing concern. So, even if we have a strengthened judiciary, we will still need this Commission on Human Rights. Human rights will always be with us as long as we live as human beings.

MR. ROMULO: Yes, but, presumably, as we improve the judicial system, because the response to the violation of human rights would improve, did the sponsor not consider that perhaps a Commission on Human Rights may be necessary for a certain number of years and then it can be phased out depending on how the other judicial machinery in our government is working out?

MR. SARMIENTO: Yes, I think I will agree with the Gentleman. We do not foreclose the possibility that at some point in time, this Commission on Human Rights will be phased out. But as of now, we really need the creation of a Commission on Human Rights.

MR. GARCIA: Could I just add to that?

There is also a need for ongoing information on human rights, both for the civilian population and the military and police forces, for them to enforce human rights and to understand the standards by which their behavior will be judged. So, I believe the better informed the citizenry and those who are especially mandated to enforce the law, the better. I think this is an important function of this Human Rights Commission; therefore, the need for this will be a permanent thing.

MR. ROMULO: When we speak of a continuing program of education and information, does the committee envision that the commission itself would undertake it or the commission would recommend to the Ministry of Education, Culture and Sports to have certain courses?

MR. SARMIENTO: I think both, Madam President. The commission itself will undertake the educational campaign or in coordination with the ministries of the government.

MR. ROMULO: And as reported here, does the sponsor feel that we need a commission to undertake this work?

MR. SARMIENTO: Yes, Madam President. I conferred with the honorable Chief Justice Concepcion and retired Justice J.B.L. Reyes and they believe that there should be an independent Commission on Human Rights free from executive influence because many of the irregularities on human rights violations are committed by members of the armed forces and members of the executive branch of the government. So as to insulate this body from political interference, there is a need to constitutionalize it.

MR. ROMULO: Thank you.

MR. RAMA: I ask, Madam President, that Commissioner Regalado be recognized.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: Thank you, Madam President.

May I just pose a few minor matters to the committee. I do not know if we took this up this morning because I happen to be out attending to our printing problems for the Commission.

On page 2, lines 5 and 6, I suppose the committee could possibly consider more of a style the deletion of the words "promulgated by the Supreme Court," because the proper terminology here is "RULES OF COURT in the Philippines." That is already understood.

MR. SARMIENTO: I thank the Commissioner for that observation.

MR. REGALADO: Also, lines 14 and 15 appear to be subparagraph 5 — "perform such other duties and functions as may be fixed by law." In the Common Provisions, Article XII, Section 7, that is required and it is one of the functions of all the constitutional commissions. Perhaps, the sponsor may consider the deletion thereof at the proper time.

MR. SARMIENTO: Thank you for that observation, Madam President.

MR. REGALADO: One major concern of mine is the meaning of the phrase "human rights" because we are going to have a constitutional commission on human rights but along the same vein as those mentioned by those who spoke before me. We do not seem to have a very definite concept of what is human rights.

The body will recall that during the proceedings on the Article on Accountability of Public Officers, as a fall-back provision in the event that this article is not approved by this Commission, I had proposed therein an addition to Section 12, paragraph 2, the last phrase there which says, "including any violation of civil, political or human rights," which I had explained before. But it will also be noticed that I was quite careful in delineating and specifying "civil, political or human rights," because if it is a civil right of which one is deprived, the procedure would be, of course, to go through a civil case. If it is a political right that is violated, it could either be a civil case or a criminal case; in which case, if it is a criminal case, it will be within the jurisdiction of the regular prosecutory services. If it is a civil case, then it will be within the individual initiative of the party complaining.

The committee mentioned this morning that in connection with the term "human rights," they are referring only to the civil and political rights embodied in the Universal Declaration of Human Rights but excluding the social and cultural rights mentioned therein.

My problem with this amorphous term is, for instance, let me invite attention to this Universal Declaration of Human Rights, particularly, Article XVI, paragraph 1 which says:

Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

If this right is violated, it is actually a violation of a civil right which, however, is now enshrined as one of the human rights under the Universal Declaration of Human Rights. In other words, we actually have here a civil right which is considered under the protection of a human right provision under the universal declaration. So, bringing it down now into this particular article, if there should be such a violation in the Philippines which only is with respect to the freedom to marry, the freedom to found a family, since it is a human right, would that fall within the jurisdiction of the proposed Commission on Human Rights?

MR. SARMIENTO: Madam President, Commissioner Aquino would like to answer the question. She is a human rights' advocate.

MS. AQUINO: I do not claim any expertise on the subject matter, but, Madam President, may I be allowed to reply.

THE PRESIDENT: Yes, Commissioner Aquino.

MS. AQUINO: I shall attempt to reply to the query of Commissioner Regalado. I think the question is conceptual in the sense that it is essentially of what values other than those we have constitutionally provided for in the Bill of Rights, provide the reservoir of sources for decisional norms in human rights cases.

In the United States there is a debate about interpretative and noninterpretative review of human rights cases. And the consensus pertaining for the moment is that the values that would serve as reservoir for decisional norms would be tradition and consensus. By tradition, we refer to principled traditions which would be determinate and helpful in projecting human rights cases.

In the Philippines, we speak of the tradition of political oppression during the period of martial law. We speak of the tradition of racial bigotry. Minimally, we could speak of the tradition of religious intolerance in the South, for example. And on matters of consensus, the consensus is on the matter of history.

This is where I would like to differ partly with the committee when it seems to focus on political cases only. It is askew; it is a bit off mark. When we speak of countries in the Third World, like the Philippines, we speak of human rights as something that is basic, something that pertains to a right to life, shelter, food, decent education and decent standards of living. It is essentially the assertion of our clamor for dignity to human life. It is born out of a collective struggle of the Filipino people against a neo-colonial history.

Compared to the countries of the First World, wherein capitalism gives full gear to individual initiative, we speak of human rights in the context of the Magna Charta of Rights as the end in itself — the freedom to assemble, speak and petition for redress of grievances.

It would seem, therefore, that there is a focus on individual and collective rights. There is a vital difference in the countries of the First World and the Third World on this matter. The emphasis, and rightly so, in the countries of the First World, is on individual rights, the Magna Charta; while in the countries of the Third World, the meaningful concept of human rights is seen in collectivism. It is a collective right of the people against inhumanity, oppression, starvation and ignorance, such that we speak of human rights not as end in themselves, but rather as means to achieve greater ends.

I think the focus should be more rightly directed in that trend.

MR. REGALADO: Madam President.

MR. SARMIENTO: Does that answer the Commissioner's question?

MR. REGALADO: Madam President, conceptualization, we admit, is proper and apt with its interstitial

differences in the quiet pathways of the academe. But I am more concerned with the application of this particular article in the roaring boulevards of actual life. And it will not be a question merely of conceptualization, but of jurisdiction. We have other agencies: the ombudsman, the regular prosecutorial services, the courts of justice.

We would like to find out now exactly what are those particular cases involving human rights which would fall within the jurisdiction of this particular constitutional commission. And I remember this morning that the committee mentioned that it will be for the commission to determine what are the cases that would be within its jurisdiction and not be compounding an undue delegation of powers.

On the other hand, I see no mention here about Congress providing for such cases as shall fall within the exclusive jurisdiction of this Human Rights Commission.

Actually, when we go into the actual application of this article, divorced from its present ephemeral status, we will have that problem: When do we invoke the jurisdiction of the Human Rights Commission? Unless there is a specification as to the cases that fall within their jurisdiction and, even if not exclusion, but at least something which may either be within their primary or secondary jurisdiction so that the party may know where to go, would the committee want it to be defined and enumerated or determined by the commission itself or would it give Congress a chance to say what are those cases which should fall within the jurisdiction of the Human Rights Commission?

MR. SARMIENTO: I think it will be for the enabling law to define exactly what are these specific offenses that will be covered by the Commission on Human Rights.

MR. REGALADO: Because I recall that in the original resolution that was filed in the committee of which I am also a member, it was more specific. I think it was the experience during the past regime that there were violations of human rights on a nationwide scale and generally committed. I think that is the thrust of this article. It is generally directed against the military forces as well as the police and the paramilitary forces which were responsible for all those things. And I think that was the progenitor which spawned the idea of a constitutional commission.

MR. SARMIENTO: Among other things, Madam President.

MR. REGALADO: I remember that there were things about salvaging, hamletting. Does the committee think that at the proper stage, it could formulate a more specific area or parameters of the jurisdiction of this Human Rights Commission, so we would know whether there would be a necessity really for so constitutionalizing the same?

I also voice the concern of some of the other Commissioners, whom I had the opportunity to exchange views with, that they feel that if we constitutionalize this commission, it is, in effect, an assumption on our part that the same situation that gave rise to the idea of having such a commission, the nationwide periodicity occurrence of human rights violations, will continue, so that we will have a constitutional Human Rights Commission indefinitely and, of course, coequally, there must also be the corresponding widespread violations of human rights. And some of them had mentioned to me that suppose after about a few years, with the proper enforcement of the laws, with the proper implementation and the protection granted to the citizens, there will only be very isolated violations of human rights, which could very well be handled by the ordinary agencies of the government, and yet we have here a constitutional commission which may turn out to be no longer necessary or, if necessary at all, not to that extent. We cannot change it or we cannot remove it unless we amend the Constitution. And there were views expressed by some: why not just a constitutionally mandated commission?

So, I am giving that as a feedback from some Commissioners so that the committee may think of the possible advance defenses should there be onslaughts, as Commissioner Maambong had already mentioned, which could

be in the form of a prejudicial question.

MR. SARMIENTO: Madam President, let us go by parts. First, I would like to address my reply to the comment or inquiry as to whether or not these violations are continuing. My answer to that is yes. Until now, we have reports of human rights violations being committed in almost every part of the country. Fact-finding missions are being conducted and they reported that there are massive human rights violations.

For instance, in the Veritas issue of August 14 to 20, 1986, the caption was "Violations Go On," and they enumerated many human rights violations committed in the provinces.

Then, in the issue of the Daily Inquirer of August 14, 1986, the caption was: "Farmer's Child's Rights Abused." And in this morning's Malaya, we have reports of human rights violations being committed in the provinces by government forces.

So, I believe that there is still a need for this Human Rights Commission.

On the inquiry on whether there is a need for this to be constitutionalized, I would refer to a previous inquiry that there is still a need for making this a constitutional body free or insulated from interference. I conferred with former Chief Justice Conception and the acting chairman of the Presidential Committee on Human Rights, retired Justice J.B.L. Reyes, and they are one in saying that this body should be constitutionalized so that it will be free from executive control or interferences, since many of the abuses are committed by the members of the military or the armed forces.

MR. REGALADO: Will the sponsor admit that this commission and the thrust of its work is really mainly directed against human rights violations by public officers or military personnel or military authorities?

MR. SARMIENTO: By the nature of the human rights violations, yes, Madam President.

MR. REGALADO: Mentioned here in Section 2, paragraph 1 is the matter of violations of human rights by private parties. Does not the sponsor think that if human rights violations are committed by private parties, the regular prosecutorial services of the government could properly take care of them? So that in the definition of the jurisdiction of the Commission on Human Rights, we zeroed in on the acts committed by these public officers, the military officers and paramilitary units.

MR. SARMIENTO: Actually, that was the original recommendation of the proponents of the resolution — that we limit it to offenses committed by public officers. But the committee recommended that we include private parties.

MR. REGALADO: In the same manner, like in the case of the ombudsman, it will be noticed that the thrust is with respect to official malfeasance, misfeasance or nonfeasance. So, at least, there is that delineating area as to their jurisdiction.

MR. SARMIENTO: At the proper time, the Gentleman may recommend his amendment, just to clarify.

MR. REGALADO: I think we can also include private parties or civilians, if they act in conspiracy with these public officers. So that, at least, we will know just exactly what is the area within which this commission should operate aside from the other agencies charged with the protection of human rights.

MR. SARMIENTO: We will appreciate the Commissioner's recommendation in this point.

MR. REGALADO: Thank you.

MR. RAMA: In connection with the discussion on the scope of human rights, I would like to state that in the past regime, everytime we invoke the violation of human rights, the Marcos regime came out with the defense that, as

a matter of fact, they had defended the rights of people to decent living, food, decent housing and a life consistent with human dignity.

So, I think we should really limit the definition of human rights to political rights. Is that the sense of the committee, so as not to confuse the issue?

MR. SARMIENTO: Yes, Madam President.

MR. GARCIA: I would like to continue and respond also to repeated points raised by the previous speaker.

There are actually six areas where this Commission on Human Rights could act effectively: 1) protection of rights of political detainees; 2) treatment of prisoners and the prevention of tortures; 3) fair and public trials; 4) cases of disappearances; 5) salvagings and hamletting; and 6) other crimes committed against the religious.

Regarding the other point on the necessity of a permanent commission, the experience of Amnesty International suggests that even countries in Europe or the United States of America need organizations on human rights like the Amnesty International where human rights education is critical to make people aware of their rights. This is because the rights are normally protected and defended when the citizens are themselves conscious that these rights are theirs and they exist. And, lastly, for those who are supposed to uphold the law, which I mentioned earlier, like the soldiers and policemen who are in-charge of jails, they should also be made conscious that there are rules that determine their behavior towards prisoners whom they are supposed to treat and deal with.

MR. RAMA: Is it also the sense of the committee that higher levels of human rights are taken care of by the Article on Social Justice?

MR. GARCIA: Exactly, there are other fora where these concerns will be dealt with. For example, on land reform there will be the Ministry of Agrarian Reform; on labor, there will be the Ministry of Labor, and so on. There are other areas but we felt it is important to elevate this entire concern for human rights to a constitutional commission to make this a permanent and lasting concern that would be beyond the reach of political changes in government.

MR. RAMA: Madam President, may I ask that Commissioner Aquino be recognized.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: Madam President, I will have to take exception to the position of Commissioner Garcia on this point because to limit the concept of human rights to political rights in matters of political oppression is very intellectually dishonest. In my previous discussion, the point that I was discussing is that human rights lie at the roots of social disequilibrium. For so long as there is structural imbalance, we would have cases of human rights. In fact, earlier when I said initially that when we speak of human rights in Third World countries, they are means not just the end in themselves, to attain dignity to human life. To this extent, I believe and I am in full agreement with the committee that the work of human rights is very noble. In fact, I think it is missionary, without sounding very patronizing about it. Whenever there is every opportunity, we should proselytize for human rights. But then, if the committee will agree with me, and this is my dilemma, human rights are basic and fundamental to the roots of social disequilibrium; it would, in effect, state likewise that when we create a constitutional commission, it is as if the objective attains to the level of a constitutional messiah that addresses structural problems of disequilibrium. We should resist that drift. I would like to disabuse the mind of Commissioner Rama about it. But for purposes of conceptual clarity, let us not just address the symptoms of the violations of human rights. Deeply imbedded are the questions of social justice, economic justice, structural oppression and social disequilibrium.

MR. GARCIA: The entire scope of human rights precisely is more on the political, civil, economic and social

rights. I agree with Commissioner Aquino that the sources of many of these violations of political rights are in themselves social and economic in nature — poverty, hunger, lack of employment, lack of land, powerlessness, lack of participation in political power. We all realize these in our experience with the people. These are the basic and root causes of many of their malaise. We are not at all safe in advocating a human rights commission if these are not the root causes. In fact, the Article on Social Justice precisely tries to address the structural, social, historical and political imbalances in our society. But what we are trying to say in this proposed article on the Commission on Human Rights is that there is also a certain set of problems regarding political detention, arrests, torture, disappearances, salvagings which we have experienced in the past and which we never want to be repeated. These are a certain set of rights which are very limited, I agree. They do not even touch, as I understand, on the root causes of the problem. But, nevertheless, they are a problem that will remain with us and with many Third World countries. And one of the major reasons why they are often not defended is that people are not aware of the extent and nature of their rights. And, therefore, one of the major advances that we can have in this country is to have a commission which will not only try to cure the effects later on, but also to prevent these by creating or forming consciences with a human rights dimension which is specific and limited in order to make it effective.

Take the example of Amnesty International. It is effective because it limits itself to the concerns of political imprisonment and torture. If it concerns itself with the whole gamut of human problems — economic injustice, social injustice and others — it could never be that effective. Therefore, we are far more modest in our efforts in this article which tries to remedy only one area, although there are other articles, other efforts and other vehicles and media where the other basic problems of society will have to be addressed.

MS. AQUINO: I hope Commissioner Garcia appreciates my position. It is not just an abstract diversion. It creates actual pragmatic problems. For example, on matters of jurisdiction, as a human rights lawyer, I handle cases of squatters who are forcibly evicted. Squatting is a human rights problem; the oppression of workers is a human rights problem; sexual discrimination is a human rights problem. Would these areas properly pertain to the jurisdiction of the Human Rights Commission?

MR. GARCIA: Although they are part of the human rights problem, we are saying that this committee should have far more modest objectives. If they want to try to remedy only one area, that is all right; it is a clearer consciousness of what basic civil and political rights are. Then this is one area that the committee should try to defend and safeguard. What does one do when he is arrested? What does one do if there is pressure to make him sign a confession without counsel, without a lawyer? These are certain rights of individuals that make one far stronger when he confronts the police power of the State.

In other words, I realize we are not solving the ultimate problem of land of the squatter here, of land of the farmer who is being evicted, but, nevertheless, we are equipping him with political tools with which to confront forces that are ranged against him. But I am saying that there are other avenues and other areas which can meet the more major and more critical problems of social justice and economic imbalance.

MS. AQUINO: I was asking for this clarification because I wanted us to rid ourselves, and I am a part of it, of the odium of this messianic syndrome, and neither do I want to raise false hopes about problems which are basic, societal and structural. That was only my concern.

MR. GARCIA: Thank you very much.

MR. RAMA: Madam President, I ask that Commissioner Maambong be recognized.

THE PRESIDENT: Commissioner Maambong is recognized.

MR. MAAMBONG: Thank you, Madam President.

I am happy to note that most of my questions have already been answered, but there are still concerns which I would like to indicate for the committee. There are three points on which I would like to ask the committee. First, I would like to go back to the problems indicated by Commissioners Regalado, Tingson and the rest, regarding the parameters of power and functions of human rights. I was very much concerned earlier when Commissioner Garcia referred to the Universal Declaration of Human Rights. As I understood him earlier, this is supposed to be the coverage of the jurisdiction of the Commission on Human Rights, but later on this was corrected by Commissioner Sarmiento when he said that it actually covers only political and civil rights. And then here comes Commissioner Aquino talking about the collective rights of the people to decency of livelihood, and so on.

So, it appears to me now that from the very start we have already been in a confused state as to what really is the coverage of this term "human rights." Could the committee perhaps give us a definitive statement on what is really the coverage?

Before that, I would like to emphasize that during the discussion on the Bill of Rights, I was very specific in asking Commissioner Bernas about the classification of rights, and we seem to have reached a point where we said that all these rights could be classified into individual rights, political rights, civil rights, economic, social and cultural. What is the coverage of these human rights we are talking about in this proposed article?

MR. SARMIENTO: The Gentleman just said that we are in a confused state; I humbly disagree, Madam President, because we made it clear that the coverage of the Commission on Human Rights should be purely civil and political rights. The Universal Declaration of Human Rights covers so many rights — economic, social, cultural, civil, political — but as I said, we will limit ourselves to civil and political rights and to our Bill of Rights.

MR. MAAMBONG: Madam President, is that an indication that later on the committee will clarify these in any of the provisions or will the committee await amendments from the floor on those points?

MR. SARMIENTO: We will gladly accommodate amendments, Madam President.

MR. MAAMBONG: Thank you.

But I have to disagree with Commissioner Sarmiento when he said that the coverage of human rights would only be political and civil; I think that is too limiting. I have been reading some articles and some reports of Amnesty International adverted to by Commissioner Garcia, and I noticed that the violations investigated by Amnesty International — they came to the Philippines and I saw their report — seem to indicate that they were not only investigating violations of political rights but individual rights. When we talk of torture, we are not talking of violations of political rights, we are talking of individual rights, and the deprivation of liberty or life.

As a matter of fact, I recall that because of our interest in this matter, we have caused it to be inserted in Section 19 of the Bill of Rights. I have been trying to insert this and, finally, the body approved it. This refers to employment of physical, psychological or degrading punishment against prisoners or detainees. So, would the Commissioner reconsider his statement that the coverage of this Human Rights Commission would only be political and civil and say that the coverage should be more on individual rights violation?

MR. GARCIA: But the persons who enjoy civil and political rights are the individuals. For example, Article 5 of the Universal Declaration of Human Rights, which prohibits torture or cruel or inhuman or degrading forms of treatment, is directed to protect the rights of individuals against torture. So, I do not see any contradiction in saying that civil and political rights are individual rights.

MR. MAAMBONG: Is the committee saying that when we say violation of political rights, we are actually covering individual rights violation?

MR. GARCIA: Definitely.

MR. MAAMBONG: Then I can get along with that.

MR. SARMIENTO: As Commissioner Maambong said, the power or the coverage of the Commission on Human Rights is very limiting. It is, Madam President. As mentioned by Commissioner Garcia, it is a modest attempt to solve the human rights problems in our country. It is not an attempt to cover all forms of human rights violations.

MR. MAAMBONG: Madam President, I think we are going to have a difficulty again, as adverted to by Commissioner Bernas, when we go into classifications. As far as my classification is concerned, individual rights are not covered by political rights. As a matter of fact, Article 21 of the Universal Declaration of Human Rights enumerates political rights; for example, that everyone has the right to take part in the government. I think that is clearly a political right. Another is that everyone has the right to equal access to public service in his country; the Universal Declaration of Human Rights went on further by saying that the will of the people shall be the basis of the authority of government. However, I take the word of the committee that when we say violation of individual rights, this is included in the term "political rights." This way, we will not be bogged down in our own method of classification.

The next point to consider is the creation of the Commission on Human Rights. I think the committee will agree that this commission can be created in three ways: It can be created as a constitutional body, just like the other constitutional commissions; we can have it mandated by the Constitution; or, even without the mandate of the Constitution, the Congress can create this body. Would Commissioner Sarmiento agree with me on that?

MR. SARMIENTO: Yes, Congress can create this body, but as I have said, if we leave it to Congress, this commission will be within the reach of politicians and of public officers and that to me is dangerous. We should insulate this body from political control and political interference because of the nature of its functions — to investigate all forms of human rights violations which are principally committed by members of the military, by the Armed Forces of the Philippines.

MR. MAAMBONG: Yes. As a matter of fact, even without the Constitution, even without the law, this Commission on Human Rights can still be created by executive fiat, whether we are in a revolutionary government or a constitutional government.

MR. SARMIENTO: As a matter of fact, President Aquino created the Presidential Committee on Human Rights.

MR. MAAMBONG: Yes, but we are in a revolutionary government. I am thinking of a situation where, even if we were not in a revolutionary government, the Office of the President can still create this kind of commission. The Gentleman will agree with me on that?

MR. SARMIENTO: Yes.

MR. MAAMBONG: Madam President, does this Commission on Human Rights have some sort of a model in the United States? Would the committee know if the U.S. Constitution contains the same provision?

MR. SARMIENTO: Madam President, I mentioned a similar Commission on Human Rights in New Zealand. This is part of their Constitution. They call it Human Rights Commission, and this is part of the unwritten Constitution of New Zealand. But the principal function of this commission is educational in nature. In our case, we are expanding the functions of the Human Rights Commission.

MR. MAAMBONG: In New Zealand, the commission is created directly by the Constitution. Is that right?

MR. SARMIENTO: Yes.

MR. MAAMBONG: Thank you.

The Human Rights Commission is supposed to be an independent body. I would not press an answer to this, but how much would the budget be, as far as this is concerned?

MR. SARMIENTO: Sufficient enough to make it independent, I think.

MR. MAAMBONG: Would the Commissioner agree with me that this Commission on Human Rights is some sort of an oversight commission just like the ombudsman in relation to the Tanodbayan? In the Ombudsman concept, as explained by Commissioner Colayco, the Ombudsman receives complaints from people because of malfeasance, misfeasance or nonfeasance in government functions and then it passes them on to the Tanodbayan. In this case, just like the Ombudsman, the Commission on Human Rights will also receive complaints, do some investigation but actually in the implementation itself, it will have to pass them on to the regular investigative bodies of this government.

MR. SARMIENTO: Not to the investigative bodies but to the prosecutory bodies of the government, because the commission will do the investigation.

MR. MAAMBONG: In other words, if the Commissioner will investigate, does it have to have a corps of investigators?

MR. SARMIENTO: Yes.

MR. MAAMBONG: And in other words, it will not rely on the investigative facilities of the Philippine Constabulary at the present setting or the NBI or any other investigative arm. It will have to have its own corps of investigators.

MR. SARMIENTO: Madam President, it will have its own corps of investigators and the body can depend upon the existing agencies of the government to assist it in its investigative work.

MR. MAAMBONG: I am a little bit worried about Section 2(1) which says: "Investigate all forms of human rights violations committed by public officers . . ." and this includes civilian and military authorities. Could the Gentleman explain what he means by "civilian and military authorities"?

MR. SARMIENTO: Madam President, "civilian and military authorities" refer to paramilitary forces. They could also refer to members of the PC-INP, members of the army, marine and navy.

MR. MAAMBONG: Just to clarify the points taken up earlier, Commissioner Garcia said that this is actually not only an investigative agency, but a recommendatory agency; it is also a preventive agency. Is that right, Commissioner Garcia?

MR. GARCIA: Yes.

MR. MAAMBONG: And it can conduct an information campaign and according to Commissioner Sarmiento, it may assist in the actual prosecution of offenses and will, in fact, cover different islands of the country, if that is at all possible. Finally, is it not a fact that when we talk of the Commission on Human Rights, we are more or less interested in the wholesale violation of rights, like atrocities, political persecutions? We do not really concern ourselves with the day-to-day crime that is committed in this country. Otherwise, the whole commission will be bogged down.

MR. SARMIENTO: Yes, Madam President. We leave it to the proper law-enforcement agencies to take care of the day-to-day crimes being committed in our country.

MR. MAAMBONG: So, we are more or less concerned with these violations which affect, probably to coin the word, humanity itself and involve so many people, like the Escalante massacre and all these.

MR. GARCIA: No, Madam President. It can also refer to one individual who is imprisoned. The violation of the rights of any one single person is a violation of human rights. When a man is not given fair trial or is tortured, this committee or this commission must investigate the violation and try to prosecute with the help of the other agencies.

MR. MAAMBONG: That is really what I am worried about, Madam President. A person might perceive that his human right is violated, and human right is a very broad term. And then, he not only goes to the regular investigative authorities; he also goes to the Human Rights Commission. We now have two agencies working along the same line. How do we intend to solve this, Madam President?

MR. SARMIENTO: Commissioner Maambong mentioned day-to-day crimes. What I had in mind when I answered his question were ordinary crimes, such as robbery, homicide, murder. But when we speak of violations against the right or the freedom against torture, against cruel and inhuman or degrading treatment or punishment or violation of the right to due process of law, freedom from arbitrary search and seizure, these are violations that can well be covered by the Commission on Human Rights.

MR. MAAMBONG: That, more or less, clarifies my question. I will just point out one thing that is happening now in the Province of Cebu, but this is not to scare the Commissioners.

If we will go over our newspapers in Cebu, the rate of killing of police officers and military officers is almost once every two days. Last Sunday, I attended the burial of one of our police patrolmen, Pat. Rolando Ruiz, a good friend of mine. Another student of mine, PC Major Pedy Noval was shot in the head. This has been going on since November 1984 up to the present; and the body count has been going on everyday. Cardinal Vidal has expressed his concern. A few days ago, in the town of Tuburan, which is adjoining my town of Asturias, the whole station command was overrun, and three policemen were executed by a group of 50 men wearing military uniforms.

This may not be true throughout the country, but I am very much distressed because this has not happened before in Cebu. Will this be considered part of the job of the commission, for example, to investigate this wholesale killing of police officers and military personnel going on not only in Cebu but all over the country?

MR. SARMIENTO: Committed by whom? Do we have the suspects?

MR. MAAMBONG: That is the queer thing about it. I looked over the statistics and found out that since 1984, those killed, whether police officers, military officers, columnists or newspapermen, were shot in the head. Nobody has been arrested or charged in court; nobody has ever been convicted because these are crimes which are supposed to be committed by people whom we do not know anything about. They attribute this to the sparrow unit of the New People's Army but even this is not clear. This is happening not only in the Province of Cebu but in other provinces. This is what I mean by wholesale killing of military personnel and police officers. And so, I ask if these should be investigated by the Commission on Human Rights.

MR. SARMIENTO: I agree with Commissioner Maambong.

MR. MAAMBONG: Thank you.

MR. RAMA: Madam President, I ask that Commissioner Rosario Braid be recognized.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Madam President, my colleagues: I am inclined to agree with Commissioner Aquino.

Although I feel that the legal and political aspects are important, I would like to see human rights in a broader context. I feel that the approach here is, to use the analogy in medicine, more curative than preventive. Perhaps such a commission, if it were elevated to a constitutional commission, should concern itself more with the environment, the historical, cultural, socio-economic conditions that have fomented this state of attitudinal and value orientation towards violence. I feel that if such is established, it should follow the form that the New Zealand Human Rights Commission had taken — that it should be more of an educational commission. I would submit that many human rights violations are, as aptly described, symptoms of the malady that is seen in terms of the inequities in our socioeconomic life, and the continuing barrage of messages from our media and other information channels as well as the educational system, which continually feed us with violence and which portray deviant behavior as the norm.

Therefore, if such is established, I hope it concentrates more on policy research and action programs on areas such as nonviolence and peace strategies. It would emphasize unique Filipino values and nonviolent strategies on social change. We will, therefore, be working on changing the environment rather than merely concentrating on a limited area. If such is established, we could work more towards the restructuring of the mass communication system and the educational system. It would emphasize the values in family life and will work towards a more comprehensive coordination of all formal and nonformal education as these are the very institutions that have contributed to the present human rights violations.

I also hope that we could include in the Human Rights Commission members not only from the legal field but also educators. If we accept that human rights promotion is a problem of education, why should we limit it only to attending to the symptoms of the problem? I hope that a more in-depth analysis of the functions of this commission is made and that we refocus it to establishing a research institution that would be devoted to peace research, to nonviolent strategies.

MR. GARCIA: Regarding the first point of the Commissioner, the different articles in the Constitution try to address the myriad problems that we face in this country. I agree with Commissioner Rosario Braid that there are numerous structural problems that are far more deep-seated and important in character. I understand that in the different articles of the constitution, we try to address these diverse problems that we face in our society, including what the Commissioner already mentioned. The Committee on Human Resources will be discussing these points on education, science, arts and culture. So, as I already mentioned, we are simply trying with very modest efforts to defend and safeguard the civil and political rights of citizens, especially when it concerns politically-related offenses or rights.

With regard to the second suggestion on incorporating into this commission men of other professions, we will be open to that suggestion if the Commissioner can formulate that amendment during the proper time.

MS. ROSARIO BRAID: Yes, may I add that it is not just propagating the primacy of human rights but focusing on how we can reorient sectors or individuals who are constant violators of human rights — providing them continuing educational programs. Some of them are now in prison; some are in the military; and some are drug addicts. Reorientation programs tailored to nonviolent strategies would help them realize that there are alternative ways of solving problems, rather than by violent means.

In other countries, they have tried to address the problems of human rights by establishing peace institutes. I know of several countries, like Finland and other developing countries, where although their long-term goals are directed to the prevention of human rights violation, their programs, however, focus on policy research and action programs.

MR. SARMIENTO: Madam President, the suggestion of the Commissioner is covered by one of the functions of

the Human Rights Commission, and that is to establish a continuing program of education and information. This program of education could cover the nonviolent strategies which she mentioned and possibly the creation of peace institutes.

MS. ROSARIO BRAID: But could we be more specific? The way it reads now, it would appear that it is enough to package an informal education program that would teach children and adults the importance of human rights. But we know that we must create the appropriate institutions that would examine the causes and consequences of human rights violations and that subsequent information and educational programs should be based on policy research.

MR. SARMIENTO: Madam President, we are formulating a fundamental law, a constitution, and I think we need not specify these various educational approaches. My submission is that these are covered by a continuing program of education.

MS. ROSARIO BRAID: Yes.

MR. SARMIENTO: But for the record, the Commissioner can mention those things as part of the continuing program of education.

MS. ROSARIO BRAID: But I would like to hope that the committee shall accept an amendment that focuses on peace research and applied programs for nonviolent strategies of social change, something to that effect.

MR. SARMIENTO: Yes.

MS. ROSARIO BRAID: Thank you very much.

MR. RAMA: Madam President, I ask that Commissioner Bacani be recognized.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: Madam President, I will ask two questions which I consider very important and they need only very direct answers.

Does the committee consider such a commission necessary?

MR. GARCIA: Yes, otherwise we would not propose it.

BISHOP BACANI: Does the committee consider it necessary that the body should be a constitutional commission?

MR. GARCIA: Yes. In his sponsorship speech, Commissioner Sarmiento explained why he considers it important. For me, the most important reason is this: We are dealing here with politically-related violations; therefore, it is important that the body is beyond the reach of political changes in government; that the members be not simply presidential appointees but that they are beyond that; that the body is independent and, therefore, can even check those forces, like the military, the police who are supposed to implement or enforce, but sometimes repress the rights of citizens.

BISHOP BACANI: While I am in full sympathy with the idea that there should be such a commission, I am not convinced by the reasoning to opt for a constitutional commission. Let us take the case of our problem regarding deforestation which has roots and ramifications that go into the executive and legislative branches of the government, and yet we do not ask, despite the seriousness of the need for reforestation and the need to arrest deforestation, for a constitutional commission on forest conservation. Let us also take the example of the situation on pollution — again, the causes go into the executive and legislative branches of government, and yet people do

not petition for a constitutional commission on pollution control despite the urgency of the problem and the fact that it is so widespread and that it has roots and branches all over, and needs independent men. Yet when it comes to human rights violations, we say: "Well, because we need people who are independent because the problem is so widespread, we should have a constitutional commission."

MR. GARCIA: The critical factor here is political control, and normally, when a body is appointed by Presidents who may change, the commission must remain above these changes in political control. Secondly, the other important factor to consider are the armed forces, the police forces which have tremendous power at their command and, therefore, we would need a commission composed of men who also are beyond the reach of these forces and the changes in political administration.

BISHOP BACANI: But that is also very true regarding deforestation. The same elements — military, men in politics, people appointed by the President — are also involved and yet we do not really ask for such a constitutional commission even though we are told by the Ministry of Natural Resources, for example, that if our present rate of deforestation continues, by the year 2000 we shall irreversibly enter into a process of "desertification" which we may have entered already, they say. But as I said, nobody has proposed to create such a commission for forest conservation.

MR. SARMIENTO: With respect to the creation of such a commission, our resolution advocated for the creation of a commission for environmental protection.

BISHOP BACANI: But not in that resolution.

MR. SARMIENTO: We had that proposed resolution, but it was disapproved by the committee. So, what remained was this Commission on Human Rights.

BISHOP BACANI: Yes. But let us consider this hypothesis also. I can understand that the three constitutional commissions: the Commission on Elections, the Civil Service Commission, the Commission on Audit, will always have something to do on a big scale. But let us say — and let me be very hopeful for a while — that President Aquino really succeeds and Minister Enrile and General Ramos cooperate with her, which is not an impossibility, and the army becomes very disciplined during the term of President Aquino. What will this Human Rights Committee deal with? It cannot deal with human rights violations of the outlaws because they are beyond the reach of the arm of the law. They will likely not take education from the government. As for the army and the police, in my hypothesis, which is not impossible, they will be behaving very well. So, what will this Commission on Human Rights do now?

MR. GARCIA: There is a lot of tasks, Commissioner Bacani. The ongoing formation of consciousness of people regarding human rights is a very big task. Secondly, it is not only the citizens, but also the men who are supposed to uphold the law — soldiers and policemen. Training and formation should also be considered here. And, thirdly, as I mentioned also earlier, just because we have resolved our problems momentarily does not mean that there are no other human rights problems around us. I think this should also be part of our consciousness as a people, as a result of our solidarity with human rights victims all over the world.

Finally, governments come and go, but if this commission stays, it will in a sense ensure that human rights will be protected no matter who is President. And that, I think, is a far more important safeguard for the future generations to come.

BISHOP BACANI: Yes, but for that, we will not need a constitutional commission on human rights. I would admit that we need a commission, some kind of a body. As regards to education, I do not know whether the educative purpose will serve as a sufficient rationale for this.

Let us consider Section 4 of the Human Resources committee report. There will be a big task of education involved here. The study of the Constitution and human rights shall be part of the curricula in all schools. So, this area will be taken care of for a very large portion of our people, and then mass media education can also be done.

MR. MONSOD: Madam President, I was just wondering whether we can think about the issue a little more in this sense, that we can see over the next few years, maybe in five or ten years, given the structural problems of the economy — the poverty, and maldistribution of income and so on — the structure of political power in the country, there will be problems of human rights in the foreseeable future. Personally, I would like to see this kind of commission expand its horizons beyond crimes involving political beliefs. Perhaps over time, this could take into consideration the wider view of human rights, social and economic rights, the educational aspects — the research into the deeper reasons for all kinds of human rights violations. In other words, the creation of a constitutional commission is a signal of the importance of human rights, but the more immediate problems are these crimes involving political beliefs. But this does not mean that this commission cannot be expanded in its scope later on. I do not see any point in time where our country will not need a Commission on Human Rights, given the very wide spectrum of human rights that are really attainable or, at least, what we would like to attain over the years.

So, personally I would like to see not a closed definition of the functions of this commission, but a slight opening so that if we do solve the immediate problems, we can go into these other problems.

BISHOP BACANI: Yes. Thank you.

I would really second the suggestion already given by many of us that we specifically name the violations that fall under the competence of this commission, for the present at least. For example, we speak of murder as not included as a human rights violation and yet salvaging would be. It is so difficult to define the line of demarcation.

MR. SARMIENTO: We will welcome the amendment in due time.

BISHOP BACANI: Thank you.

MR. MONSOD: Maybe what the Commissioner means is that we can look at it on several stages. Then we can have more specific crimes in the first stage.

MR. RAMA: Madam President, Commissioner Guingona would like to be recognized.

THE PRESIDENT: Commissioner Guingona is recognized.

MR. GUINGONA: Thank you, Madam President.

I would like to start by saying that I agree with Commissioner Garcia that we should, in order to make the proposed commission more effective, delimit as much as possible, without prejudice to future expansion, the coverage or scope of the concept and jurisdictional area of the term "human rights." I was actually disturbed this morning when reference was made without qualification to the rights embodied in the Universal Declaration of Human Rights, although later on, this was qualified to refer to civil and political rights contained therein.

If I remember correctly, Madam President, Commissioner Garcia, after mentioning the Universal Declaration of Human Rights of 1948, mentioned or linked the concept of human rights with other human rights specified in other conventions. I think he mentioned one other convention which I do not remember. Am I correct?

MR. GARCIA: Is Commissioner Guingona referring to the Declaration of Torture of 1985?

MR. GUINGONA: I do not know, but the Commissioner mentioned another.

MR. GARCIA: Madam President, the other one is the International Covenant on Civil and Political Rights of which we are a signatory.

MR. GUINGONA: I see. The only problem is that, although I have a copy of the Universal Declaration of Human Rights here, I do not have a copy of the other covenant mentioned. It is quite possible that there are rights specified in that other convention which may not be specified here. I was wondering whether it would be wise to link our concept of human rights to general terms like "convention," rather than specify the rights contained in the convention.

As far as the Universal Declaration of Human Rights is concerned, the committee, before the period of amendments, could specify to us which of these articles in the Declaration will fall within the concept of civil and political rights, not for the purpose of including these in the proposed constitutional article, but to give the sense of the Commission as to what human rights would be included, without prejudice to expansion later on, if the need arises. For example, there was no definite reply to the question of Commissioner Regalado as to whether the right to marry would be considered a civil or a social right. Is it not a civil right?

MR. GARCIA: Madam President, I have to repeat the various specific civil and political rights that we felt must be envisioned initially by this provision — freedom from political detention and arrest, prevention of torture, right to fair and public trials, as well as crimes involving disappearances, salvagings, hamlettings and collective violations. So, it is limited to politically related crimes, precisely to protect the civil and political rights of a specific group of individuals, and, therefore, we are not opening it up to all of the definite areas.

MR. GUINGONA: Correct. Therefore, just for the record, the Gentleman is no longer linking his concept or the concept of the Committee on Human Rights with the so-called civil or political rights as contained in the Universal Declaration of Human Rights.

MR. GARCIA: When I mentioned earlier the Universal Declaration of Human Rights, I was referring to an international instrument.

MR. GUINGONA: I know.

MR. GARCIA: But it does not mean that we will refer to each and every specific article therein, but only to those that pertain to the civil and political rights that are politically related, as we understand it in this Commission on Human Rights.

MR. GUINGONA: Madam President, I am not even clear as to the distinction between civil and social rights.

MR. GARCIA: There are two international covenants: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The second covenant contains all the different rights — the rights of labor to organize, the right to education, housing, shelter, et cetera.

MR. GUINGONA: So, we are just limiting at the moment the sense of the committee to those that the Gentleman has specified.

MR. GARCIA: Yes, to civil and political rights.

MR. GUINGONA: Thank you.

MR. RAMA: Madam President, there are only two more registered speakers but one of them is not around, so I ask that Commissioner Tan be recognized.

THE PRESIDENT: Commissioner Tan is recognized.

SR. TAN: Madam President, from the standpoint of the victims of human rights, I cannot stress more on how much we need a Commission on Human Rights. First of all, we are completely wrong if we think that the Aquino government has brought about peace. There are more cases of salvaging now than there was even before. And just this week, we had two in our area — one was electrocuted in the Makati Police Unit because they wanted to exact a confession; and the other was tortured in the Manila Police Unit. So, we are under illusion if we think that even after 100 years, we will have no human rights problems. Another reason is, human rights lawyers are very, very scarce. Whenever we need them, we can only find Soc or Fely or Rene; they are very scarce. Even my own family of lawyers does not know anything about human rights law.

Another reason is that human rights victims are usually penniless. They cannot pay and very few lawyers will accept clients who do not pay. And so, they are the ones more abused and oppressed. Another reason is, the cases involved are very delicate — torture, salvaging, picking up without any warrant of arrest, massacre — and the persons who are allegedly guilty are people in power like politicians, men in the military and big shots. Therefore, this Human Rights Commission must be independent.

I would like very much to emphasize how much we need this commission, especially for the little Filipino, the little individual who needs this kind of help and cannot get it. And I think we should concentrate only on civil and political violations because if we open this to land, housing and health, we will have no place to go again and we will not receive any response. I think our human rights lawyers, especially those belonging to the MABINI and FLAG, are one of the heroes of martial law.

Thank you.

MR. RAMA: Madam President, there are no more registered speakers, so, I ask that we close the period of sponsorship and debate so we can move on to the period of amendments.

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; the motion is approved.

SUSPENSION OF SESSION

MR. RAMA: There is a request that we suspend the session for a few minutes.

THE PRESIDENT: The session is suspended.

It was 4:44 p.m.

RESUMPTION OF SESSION

At 5:01 p.m., the session was resumed with the Honorable Francisco A. Rodrigo presiding.

THE PRESIDING OFFICER (Mr. Rodrigo). The session is resumed.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). The Floor Leader is recognized.

MR. RAMA: On account of the impending typhoon, I move that we adjourn the session until tomorrow at nine-thirty in the morning.

MR. MAAMBONG: Mr. Presiding Officer, before the Chair rules on the motion, I would like to manifest my reservation to file a motion tomorrow, concerning the present article we are discussing which I intimated during the caucus. I will do it tomorrow or otherwise, it will be done by Commissioner Calderon.

Thank you.

ADJOURNMENT OF SESSION

THE PRESIDING OFFICER (Mr. Rodrigo). Let that reservation be recorded.

Is there any objection to the motion for adjournment? (Silence) The Chair hears none; the session is adjourned until tomorrow at nine-thirty in the morning.

It was 5:01 p.m.

[*] Appeared after the roll call

[*] See Appendix

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