

**IN THE MATTER OF THE ALLEGED
HUMAN RIGHTS VIOLATIONS
COMMITTED AGAINST THE FORTY
THREE (43) INDIVIDUALS,
INCLUDING DOCTORS, NURSES AND
COMMUNITY HEALTH WORKERS,
ARRESTED IN MORONG, RIZAL
(MORONG 43), AND NOW DETAINED
IN CAMP CAPINPIN, TANAY, RIZAL,**

**RAY-OM AMONG, JANE BALLETA,
JOHN MARK BARRIENTOS, ELENOR
CARANDANG, EULOGIO "ELY"
CASTILLO, SAMSON CASTILLO,
MERCY CASTRO, DR. MERRY MIA
CLAMOR, RAMON DELA CRUZ, ROMEO
DELA CRUZ, LEAH CRISTINE "RIA" DE
LUNA, EDWIN DEMATERA, ANGELA
DOLORICON, LILIBETH DONASCO,
JULIUS DUANO, MARK ESCARTIN,
RONILO ESPERA, JACQUELINE
GONZALES, JANICE JAVIER, SYLVIA
LABRADOR, GARY LIBERAL,
REYNALDO MACABENTA, EMELIA
MARQUEZ, EMILY MARQUEZ, PEARL
IRENE MARTINEZ, ACE MILLENA, DR.
ALEXIS MONTES, GLENDA MURILLO,
LYDIA "DEL" OBERA, DELIA OCASIA,
CARINA "JUDILYN" OLIVEROS, JOVY
"MARVIN" ORTIZ, MIANN OSEO,
LINDA OTANEZ, VALENTINO
PAULINO, DANNY PIÑERO, JENELYN
PIZARRO, MA. TERESA QUINAWAYAN,
FRANCO ROMEROSO, LORELYN
SALIGUMBA, MARIA ELENA SERATO,
CHENILYN TAWAGON AND YOLANDA
YAUN, as represented by the PUBLIC
INTEREST LAW CENTER and the
NATIONAL UNION OF PEOPLE'S
LAWYERS,**

Complainants,

-versus-

CHR-NCR Q-10-0020

**PRESIDENT GLORIA MACAPAGAL-
ARROYO, SEC. NORBERTO GONZALEZ,
SEC. RONALDO PUNO, SEC. AGNES
DEVANADERA, GEN. VICTOR IBRADO,**

DIR. GEN. JESUS VERZOSA, LT. GEN. DELFIN BANGIT, LT. GEN. ROLAND DETABALI, BRIG. GEN. JORGE SEGOVIA, COL. AURELIO BALADAD, LT. COL. JAIME ABAWAG, P/SUPT. MARION BALONGLONG, JUDGE CESAR MANGROBANG, STATE PROSECUTOR II ROMEO SENSON, AND SENIOR ASSISTANT CHIEF STATE PROSECUTOR SEVERINO GANA,
Respondents.

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O R D E R

By constitutional fiat, the Commission on Human Rights (the “Commission” or “CHR”, for brevity) is mandated to, among others, “[I]nvestigate, on its own or on complaint by any party, all forms of human rights violations involving civil and political rights,” and “[P]rovide appropriate legal measures for the protection of human rights of all persons within the Philippines xxx and provide for preventive measures and legal and services to the underprivileged whose human rights have been violated or need protection.” (Sec. 18 [1] & [2], Art. XIII, 1987 Constitution)

On February 25, 2010, the Public Interest Law Center, led by Atty. Romeo T. Capulong, and the National Union of Peoples’ Lawyers (NUPL), in representation of 43 named doctors, nurses and medical workers, filed a letter-complaint against the following government officials for the alleged illegal arrest, detention, and torture of their clients who were attending a health training seminar at the farmhouse of Dr. Melecia Velmonte at 266 Dela Paz St., Barangay Maybangel, Morong, Rizal on February 6, 2010:

1. President Gloria Macapagal-Arroyo;
2. Secretary of National Defense/National Security Adviser Norberto Gonzales;
3. Secretary of Interior and Local Government Ronaldo Puno;
4. Secretary of Justice Agnes Devanadera;
5. Armed Forces of the Philippines (AFP) Chief of Staff Gen. Victor Ibrado;
6. Philippine National Police (PNP) Director General Jesus Verzosa;
7. Philippine Army Commanding General Lt. Gen. Delfin Bangit;
8. Philippine Army Southern Luzon Command (SOLCOM) Commanding General Lt. Gen. Roland Detabali;
9. Brig. Gen. Jorge Segovia, Chief, 2nd Infantry Division, Philippine Army;
10. Col. Aurelio Baladad, Commander, 202nd Infantry Brigade, Philippine Army;
11. Lt. Col. Jaime Abawag, Commander, 16th Infantry Battalion;
12. P/Supt. Marion Balonglong, Rizal Provincial Police;
13. Judge Cesar Mangrobang, Presiding Judge, RTC Imus, Cavite, Branch 22;

14. State Prosecutor II Romeo Senson; and
15. Senior Assistant Chief State Prosecutor Severino Gana

The President, the Defense Secretary/National Security Adviser and the DILG Secretary are made respondents under the doctrine of command responsibility. The aforementioned military and police officials, headed by the AFP Chief of Staff and PNP Director General, are impleaded due to their command and direct responsibility for the acts allegedly committed by their subordinates. The DOJ Secretary and two prosecutors are also being made accountable for their alleged complicity in legitimizing the commission of human rights violations, through the conduct of an allegedly defective inquest and issuance of a Resolution on the basis thereof. The aforementioned RTC Judge is likewise implicated for the issuance of the warrant used to justify the raid.

Even before the filing of the letter-complaint, the Commission, in the exercise of its afore-quoted *motu proprio* investigative mandate, has already taken cognizance of the case and undertook preliminary actions.

THE COMPLAINT

The complaint alleges that on February 5, 2010, P/Supt. Marion Balonglong applied for a search warrant against a certain Mario Condes before Judge Cesar Mangrobang. On the same day, Judge Mangrobang issued a search warrant for an M16 rifle, 9mm pistol, 12 gauge shotgun, and .45 pistol in the possession of Mario Condes at Brgy. Maybangcal, Morong Rizal. The search warrant did not specify the house or land where it was to be enforced.

Illegal Search

On February 6, 2010, Col. Aurelio Baladad and P/Supt. Balonglong, together with three hundred (300) soldiers and policemen, entered and searched Dr. Velmonte's farmhouse to execute the search warrant against Mario Condes. Mario Condes was not in the premises of Dr. Velmonte's farmhouse, and neither were the firearms listed in the search warrant as being in his possession. Instead, the searching team of 300 found 43 doctors, nurses and health workers (Morong 43) whom they rounded up in the drive-way of the farmhouse while the search of the farmhouse was conducted. No search warrant was initially shown; it was shown only by Col. Aurelio Baladad after the search had commenced. The search team continued their search in spite of Dr. Velmonte's protests regarding the defective search warrant and the fact that there was no Mario Condes in the house.

Thereafter, the search team announced that they found grenades, explosives and firearms in the premises, which evidence were planted.

Illegal Arrest, Incommunicado Detention, and Torture

The armed personnel proceeded to arrest the Morong 43 without any warrants, and without informing them of the reason for such. They were not informed of their rights and were not told where they were to be brought. They were denied their right to counsel immediately upon arrest, which they invoked.

The Morong 43 were then hand-tied, blindfolded and thereafter boarded in military trucks and vehicles to unknown destinations. They were held incommunicado and underwent torture: blindfolded, interrogated, deprived of sleep, sexually harassed, physically beaten, given death threats, threatened with firearms, and electrocuted.

All throughout this period, the Morong 43 were not allowed to communicate with the outside world and were separated from each other. They had no opportunity to communicate with friends, relatives, or lawyers.

Specifically, the complaint cites the following violations, to wit:

- “a.) All the 43 doctors and medical workers were denied their right to counsel immediately after their arrest. They were allowed to see their lawyers only five (5) days after their illegal arrest;
- “b.) They were placed in incommunicado status;
- “c.) They were subjected to prolonged and repeated interrogation to elicit information while blindfolded and in handcuffs, they were still blindfolded when their fingerprints were taken;
- “d.) They were deprived of sleep, interrogated individually at odd hours, made to listen to gun shots and the unnerving screams of the other detained persons;
- “e.) They were deprived of visitation rights of families and relatives;
- “f.) During tactical interrogation, they were given death threats and forced to admit membership in the New People’s Army; they were subjected to psychological torture; the military threatened to harm their families if they refused to cooperate;
- “g.) They were threatened and convinced to cooperate with the military with a promise to help fix their cases or give rewards;
- “h.) Valentino Paulino was concealed from his lawyers when they tried to confer with him on February 11, 2010; he was threatened and forced to admit membership in the New People’s Army and thereafter presented to the media against his will;
- “i.) Jane Ballea, an epileptic, was deprived of her medicines; Glenda Murillo suffered internal bleeding leading to a miscarriage due to the early morning raid on 6 February 2010 and was refused medical attention;

- “j.) Deprived of privacy; army officers and soldiers take off their clothing and underwear every time they go to the comfort room;
- ‘k.) Sexual harassment on Jane Balleta and Miann Oseo - soldiers took off their clothing during questioning; Mercy Castro - the soldiers express their desire to kiss her during interrogation;
- “i.) Physical torture on Ramon de la Cruz, the interrogators punch him near the liver area, tight handcuffs causing wounds on the wrists, knee blows to his legs, soldiers strike at his solar plexus, back, nape and shoulders; Dr. Alex Montes, suffered electrocution, punches on the chest; Lilibeth Donasco – was hit and punched in the head by a male soldier when she would not answer during interrogation; it caused the ringing of her ears and extreme dizziness, aggravated by the tightness of the blindfold; Eulogio Castillo prior to the taking of his fingerprints and photograph, firearms were aimed at his head and back.” (at p.7)

Irregular Inquest Proceedings

On February 7, 2010, the Morong 43 were presented before State Prosecutor II Romeo Senson. Senson conducted a roll call of the Morong 43 and then announced that they were thereby being charged with illegal possession of firearms and explosives. By this time, the lawyers of the Morong 43 had already received information that they were being held in Camp Capinpin, Tanay, Rizal. Said lawyers were at the gates of said Camp waiting to be admitted inside to see their clients. Despite this, they were not invited or allowed to proceed to participate in the supposed inquest proceedings being conducted by State Prosecutor Senson.

On February 8, 2010, Senson recommended the filing of charges against the Morong 43 for illegal possession of firearms and explosives. On February 11, 2010, the informations for illegal possession of firearms and explosives were filed against the Morong 43.

CHR’s PRELIMINARY INTERVENTIONS/ACTIONS

Acting on various information, received thru text messages and from media reports, the Chairperson Leila M. de Lima immediately directed the CHR-NCR office to dispatch a Quick Reaction Team (QRT). This QRT¹ was later expanded into an Investigating Team composed of CHR-NCR lawyers and other special investigators, as well as doctors from CHR’s Assistance and Visitorial Office (AVO).²

¹ Composed of SI-III Nicanor S. Agustin and SI-I Ramon Raul L. Velasco.

² CHR-NCR personnel; Atty. Dennis F. Mosquera, Atty. Maxlen C. Balanon, SI-III Ronnie Rosero, SI-II Antonio Abbago, SI-I Marilou V. Sebastian and SI-I Maria Teresa F. Castellano. The CHR-AVO personnel: Dr. Joseph Andrew D. Jimenez, Medico Legal Officer IV.

On 7 February 2010, or the day after the raid/arrest, the QRT went to Morong, Rizal and conducted a preliminary interview of Mr. Jose Manuel A. Velmonte, son of Dr. Velmonte and manager of the farmhouse/resort.

From there, the QRT proceeded to Camp Capinpin in Tanay, Rizal, supposedly to visit and interview the 43 arrested persons. Despite, however, repeated attempts and plea (from 12:00 noon to 4:00 p.m.) to gain access into the camp, the military guards or the MPs at the gate denied the team members entry. They even refused to relay the QRT's message to the camp authorities. The CHR Chair's own attempts on that day, Feb. 7, to communicate to military officials and demand for the QRT's entry also proved futile. This elicited a strong protest from the CHR Chair, aired through media and subsequently in a formal letter sent to AFP Chief of Staff, Gen. Ibrado, demanding that the AFP respect CHR's visitorial mandate.

Finally, the next day, Feb. 8, the CHR-NCR investigating team, and accompanied by the Chair herself, were allowed entry into the camp and were able to visit and interview the 43 detainees. Some of the relatives were also allowed entry on that day.

Another visit was made by the CHR Chair and the CHR-NCR investigating team, and this time with the CHR-AVO doctors on 11 February 2010. For the first time, private lawyers (mostly from the Public Interest Law Center) and a few doctors were also granted access to the detainees on that day.

On the same day, Feb. 11, a CHR-NCR team also proceeded to Morong, Rizal and secured a joint sworn statement of two (2) Barangay Kagawads who were among the witnesses to the Feb. 6 search in Dr. Velmonte's farmhouse. Sworn statements from two helpers/staff were also secured. To date, however, Dr. Velmonte and her son Jose Manuel "Bob" Velmonte have yet to submit their respective sworn statements, which they committed to prepare with the assistance of their own counsel.

Since not all detainees were examined during the Feb. 11 visit (3 were missed due to time constraints), and on account of fresh allegations of maltreatment and even physical torture, the CHR-AVO doctors made another visit on 18 February 2010.

Prior thereto, or on 15 February 2010, the CHR Chair and CHR-NCR lawyers attended the Court of Appeals hearing on the habeas corpus petition.

Common Claims and Allegations

Based on the CHR team's private, individual interviews with the detainees during the Feb. 6, 11 and 18 visits, the following are essentially their common allegations, *viz*:

- a. That they were arrested in Morong, Rizal on 6 February 2010 on or about 6:00 a.m. by combined elements of the military and the police;
- b. That their then presence at Dr. Vemonte's farmhouse was on account of their participation in a 7-day first responders' medical training, which started on Feb. 1 and was to end on Feb. 7;
- c. That at the time of the arrest, the detainees were roughly handled by the arresting officers, i.e., subjected to verbal abuse and slaps to the head and face;
- d. That at the time of the arrest, they were not informed of the cause of their arrest and of their rights as arrested persons. They were not provided with counsel despite demanding for such;
- e. That they were blindfolded and handcuffed using plastic handcuffs for 36 hours more or less, beginning at the time of their arrest up to their being brought initially to an unknown detention area. The blindfolds and handcuffs were removed only when the detainees were finally brought to their present detention facility, on or about late afternoon or evening of Feb. 7;
- f. That they were given food but they did not know what was being fed to them since they were blindfolded;
- g. That each detainee was assigned 1 soldier, a "buddy" – a female soldier for a female detainee and a male soldier for a male detainee;
- h. That since they were continuously handcuffed and blindfolded during the 1st 36 hours of detention, somebody else (presumably, their respective buddies) would pull down their underwear and even wash their private parts at the toilet;
- i. That they were subjected to repeated interrogations generally at night and conducted by teams of unidentified 2 to 4 men, using scare tactics, such as threats of physical violence and summary execution. The detainees would either be brought out of their cells to an undisclosed location or the interrogators would hold the questioning at the detainees' own cells;
- j. That interrogations continued even after the CHR team's first and second visits on Feb. 8 and Feb. 11, respectively;
- k. That they were made to appear before a DOJ prosecutor, a certain Prosecutor Senson, sometime in the evening of Feb. 7, who apparently "inquested" them by doing a roll call of the detainees and informed them that they were being charged for illegal possession of firearms;
- l. That at the time of such "inquest" proceedings, as well as during interrogations, their demand for the presence of counsels fell on deaf ears.

Other Claims/Complaints (individual)

Further accounts and information of their ordeal were extracted from certain detainees in the course of the CHR-NCR and CHR-AVO teams' sessions with them.

Dr. Alexis Montes (Detainee No. 36) reported having brought out of his detention cell and interrogated as to his involvement with the New People's Army (NPA). He was being pushed in his chest resulting him to slide. He also claims having felt a tingling sensation on the side of his thighs which he attributes to some form of electrocution, and exposed to a gas-like volatile substance during interrogation.

Another male detainee, Ramon De la Cruz (Detainee No. 35) reported feeling what he believed to be a lighted cigarette near his lips during interrogation.

A number of female detainees said that they were forced to wear pampers during the first night of their detention.

A female detainee alleged that one of the interrogations, while forcing her to admit her membership in the "hukbo", held her leg tightly. Another female detainee said that because of her refusal to admit her being an NPA, she was exposed to the heat of the sun for hours. Still another female detainee (who was not feeling well during the interview) narrated that whenever her answers would not satisfy her interrogations, she was slapped 3 times, hit at the back of her head and threatened to be buried alive. Another detainee similarly complained of the threat to be buried alive if she would not cooperate. One other female detainee, heard gun shots and screams.

Other alleged threatening words from interrogators, according to some detainees, consist of: "sa tingin nyo ba, mabubuhay pa kayo?," "hindi naman alam ng abogado nyo kung nasaan kayo," "baka bigla kayong bangongotin," and the like.

Some female detainees confided in the CHR Chair that they fear the coming of nighttime because of the interrogations.

Some detainees also reported that personnel belongings like cell phones, money, ATM cards, eyeglasses, etc. were confiscated.

During a brief dialogue with the CHR Chair on 25 February 2010 when the instant complaint was filed, certain relatives of detainees made mention of access being recently allowed to the detainees by civilians, who are unknown to the detainees, presumably rebel returnees, and recent interrogations allegedly participated in by such civilians or rebel returnees, aside from military and intelligence personnel.

Initial Findings of CHR Doctors

In the course of their Feb. 11 and 18 visits, the CHR-AVO doctors checked on, and examined, the physical condition of the 43 detainees. Three (3) detainees were initially not examined during the Feb. 11 visit due to time constraints. One of them was Valentino Paulino (Detainee No. 37). This detainee was initially being interviewed, and his statement was being

taken by a CHR investigator, in the morning of Feb. 11, but was interrupted when a soldier asked that subject detainee be excused first. When the team requested to interview Valentino Paulino again late afternoon of Feb. 11 so as to finish his written statements, they were told that he was not feeling well. Valentino Pascual was finally interviewed and examined by the CHR doctors only on the next visit on Feb. 18.

Except for the claims of Dr. Montes as above-narrated, no complaints of physical torture were received by the CHR-AVO doctors and by the CHR-NCR investigators. There were also no traces or injuries of physical torture on examination.

Some detainees exhibited injuries on their wrists, head/eye areas or arms/forearms, which are consistent with their claim of tight handcuffing and/or blindfolding, as well as rough handling during arrest. These detainees are:

NAME **Detainee No.** **Noted Injuries**

Female Detainees

1.AMONG, RAY-OM ARDAG	#23	Contusions - light grayish, irregularly shaped, volar radial aspects of both wrists; Contusion - light brownish, irregularly shaped, ~3 cm x ~2 cm, medial aspect, Right knee (distal thigh)
2.CARANDANG, ELLEN ORGENA	#03	multiple circumferential linear abrasions seen on dorsum of Left wrist
3.DOLORICON, ANGELA MANOGAN	#18	2 abrasions (0.5 cm x 0.5 cm and 1 cm x 1 cm) noted on posterior aspect of Right forearm
4.JAVIER, JANICE QUIATCHON	#19	Contusion, ~1cm, irregularly shaped, reddish, Left malar area
5.OCASLA, DELIA MEDRANO	#21	Abrasion, ~2 cm, linear, dorsum, Left forearm

Male Detainees

1.ABETRIA, ALFREDO CORONACION	#29	Abrasions – multiple, linear, ~0.8 cm x 7 cm, lateral volar aspect, of Right wrist and Abrasions ~0.8 cm x 13 cm, across dorsum of Left wrist and 1 x 0.5 cm, ulnar-volar aspect of Left wrist
2.BUSTAMANTE, EDWIN DEMATERA	#28	Contusion with scab formation, ~2 cm x 2 cm, Left occipital area

		<p>(alleged to be due to metal button on blindfold)</p> <p>Abrasion – multiple linear, ~0.5 cm x 6 cm, dorso-lateral aspect, and across dorsum of Right wrist</p> <p>Abrasions-~2cm,curvilinear, posterior aspect, Right forearm</p> <p>Abrasions – multiple, lateral and medial aspects of Left wrist</p>
3.CASTILLO,SAMSON MAYUGA	#42	<p>Abrasions - ~0.5 cm x 1.2 cm, dorso-medial aspect of Right wrist</p> <p>Abrasions - ~2 cm x 1 cm, dorso lateral aspect, Left wrist and 0.5 cm x 2.5 cm, dorso- medial aspect, Left wrist</p>
4.DE LA CRUZ,RAMON SANTOS	#35	Abrasions - multiple,linear, on dorsum of Right and Left wrists
5.DUANO,JULIUS BARSAGA	#32	<p>Abrasions - longitudinal~0.5 cm x 2.3 cm, across bridge of nose</p> <p>Abrasions – 1.2 cm x 10cm across dorsum of Right wrist and 1 cm x 12 cm, across dorsum of Left wrist</p>
6.DE DIOS,ANTONIO	#30	Abrasions – linear, diagonal ~7cm, dorsum Left distal forearm
7.ESCARTIN,MARK	#27	Abrasions – multiple linear – 1 cm, medial aspect, Right wrist
8.LIBERAL, GARY APUHIN	#39	<p>Abrasion – 5.5 x 1.5 cm, dark brown, Right lateral wrist</p> <p>Abrasions – multiple, linear, ~ 6cm, Left lateral wrist</p>
9.MACABENTA REYNALDO	#41	<p>Abrasions – 1.5 cm, lateral Right wrist</p> <p>Abrasions – multiple, ~5 cm, lateral Left wrist</p>
10.PAULINO,VALENTINO AVALLE	#37	<p>Abrasions – 1 x0.5 cm lateral aspect, Right wrist with multiple linear abrasions on medial aspect, Right wrist</p> <p>Abrasion – 2 x 0.5 cm, medial aspect, left wrist</p>

A female detainee, Judilyn Oliveros (Detainee No. 25) is confirmed pregnant (15 weeks and 4 days) per ultrasound taken last 8 Feb. 2010. Another detainee, Glenda Murillo (Detainee No. 24) alleges a (+) pregnancy test taken at the Camp Capinpin hospital, but was told that the ultrasound done also on 8 Feb. 2010 was negative for pregnancy. Detainee No. 6, Lydia Obera, reported having nightmares since the Feb. 11 visit of the CHR.

Several detainees each have a medical history of sorts, to wit:

Name **Detainee No.** **Nature of Medical History**

Female Detainees

1. BALLETA, JANE BELTRAN	#16	Epilepsy
2. CASTRO, MERCY ICBAN	#17	Gastritis and malaria; Surgical history of Caesarian section
3. CLAMOR, MERRY	#4	Hypertension
4. OCASIA, DELIA	#21	Hypertension and anaphylactic shock; note of dentures, both upper molars and 1 incisor
5. OSEO, MIANN IDJAO	#22	Goiter
6. OTAÑES, LINDA	#20	Surgical history of tubal ligation
7. QUINAWAYAN, MA. TERESA	#08	Asthma, allergic rhinitis
8. YAUN, YOLANDA	#05	Hypertension, Surgical history of Thyroidectomy (2007) and Hysterectomy (2009)

Male Detainees

1. PIÑERO, DANNY LARGO	#40	Peptic Ulcer
2. ROMEROSO, FRANCO	#34	Perforated eardrums

Concerns raised during interviews were provisions for medications for pre-existing illnesses and the return of certain personal effects such as eyeglasses and dental retainers.

During the Feb. 18 sessions with them, the detainees stated that they are allowed to sun themselves in the quadrangle for 20-30 minutes per day, in groups of 4 to 5 persons.

On the matter of alleged physical torture, and given the persistent claims of relatives of certain detainees that the latter were and/or still being subjected to such and other forms of physical maltreatment, the Commission shall further verify or investigate such claims, inspite of the CHR doctors' initial findings to the contrary. We are cognizant of the atmosphere of detention in a military facility, and the attendant interrogations thereat (as commonly and firmly averred by the detainees),

which may have a bearing on a detainee's ability and willingness to disclose fully his or her ordeal.

HUMAN RIGHTS VIOLATIONS INVOLVED

The incidents complained and reported involve the investigation of the commission by the respondents of several forms of human rights violations. These are the following:

Right to be secure from unreasonable searches

The right to be secure from unreasonable searches is a human right provided for and protected under the following provisions of domestic and international law:

1. Secs. 2 and 3 (2), Article III, 1987 Constitution;
2. Rule 126, Rules of Court;
3. Rule 12, PNP Operational Procedures;
4. Articles 3 and 12, Universal Declaration of Human Rights; and
5. Articles 9 and 17 of the International Covenant on Civil and Political Rights.

The alleged violations in this case consist of the irregular issuance of the search warrant, its patent nullity, and the manner of its execution on February 6, 2010 against the premises of Dr. Velmonte and the persons of the Morong 43.

Right to be secure from unreasonable seizure and arrest

The right to be secure from unreasonable seizure and arrest is a human right provided for and protected under the following provisions of domestic and international law:

1. Secs. 2, 3 (2), and 15, Article III, 1987 Constitution;
2. Rule 113, Rules of Court;
3. Rule 11, PNP Operational Procedures;
4. Articles 3 and 9, Universal Declaration of Human Rights; and
5. Article 9 of the International Covenant on Civil and Political Rights.

The alleged violation in this case consists of the illegal arrest of the Morong 43 on February 6, 2010 without a warrant of arrest and based exclusively on the results of an illegal search.

Right to be secure from illegal and incommunicado detention

The right to be secure from illegal and incommunicado detention is a human right provided for and protected under the following provisions of domestic and international law:

1. Sec. 12 (2) & (3), Sec. 15, and Sec. 18, Article III, 1987 Constitution;

2. Republic Act No. 7438 (Rights of Persons Arrested, Detained or under Custodial Investigation);
3. Sec. 8, Rule 11, PNP Operational Procedures;
4. Articles 3 and 9, Universal Declaration of Human Rights; and
5. Article 9 of the International Covenant on Civil and Political Rights;

The alleged violation in this case consist of the detention of the Morong 43 after their arrest 1) in secret and solitary detention facilities undisclosed to the Morong 43 and the rest of the world from February 6-7, 2010, 2) refusal (initially) of the respondents to comply with the writ of habeas corpus issued by the Supreme Court, and 3) continued detention in a military camp (Camp Capinpin, Tanay, Rizal) instead of a civilian detention facility under the jurisdiction of the PNP.

Right to be secure from torture

The right to be secure from torture and all forms of degrading and inhuman punishment is a human right provided for and protected under the following provisions of domestic and international law:

1. Sec. 12 (2) (3) & (4), and Sec. 19 (2), Article III, 1987 Constitution;
2. Republic Act No. 9745 (Anti-Torture Act of 2009);
3. Sec. 8, Rule 11, PNP Operational Procedures;
4. Articles 5, Universal Declaration of Human Rights; and
5. Articles 7 of the International Covenant on Civil and Political Rights.

The alleged violation in this case consists of the several and various acts of mental, psychological and physical torture undergone by the Morong 43 while detained separated from each other in secret detention facilities and conducted during and outside of interrogation proceedings.

Right to counsel and visitors

The right to counsel and to be visited, especially by relatives, religious ministers, and physicians, is a human right provided for and protected under the following provisions of domestic and international law:

1. Sec. 12 (1) & (3), Article III, 1987 Constitution;
2. Republic Act No. 7438 (Rights of Persons Arrested, Detained or under Custodial Investigation);
3. Sec. 6, Rule 11 and Rule 16, PNP Operational Procedures;
4. Rule 113, Sec. 14, Rules of Court;
5. Articles 5, Universal Declaration of Human Rights; and
6. Article 14.3 (b) of the International Covenant on Civil and Political Rights.

The alleged violation in this case consists of the deprivation of the right to counsel of the Morong 43 1) all throughout their detention in secret detention facilities while being interrogated and tortured, 2) during the

“inquest proceedings” supposedly conducted by State Prosecutor Senson, and 3) up to the present where they are constructively deprived of the same because of their captors’ continued refusal to give their counsels access to their persons at all times of night and day, as well as by their relatives and physicians at reasonable times.

**JURISDICTION OF THE COMMISSION
ORDER TO COMMENT, AND OTHER INTERLOCUTORY
ORDERS**

All these issues presented in the Complaint involve violations of the human rights of the complainants, particularly their civil and political rights, which are therefore within the investigative jurisdiction of this Commission pursuant to Sec. 18 [1], Art. XIII of the 1987 Constitution. As such, in the exercise of its investigative powers as mandated under the Constitution, the Commission **HEREBY** takes cognizance of the instant case and therefore issues the following **ORDER**:

1. The following respondents are hereby **ORDERED** to file their **ANSWER** to the Complaint **within an inextendible period of ten (10) days** from receipt of this Order:
 - a. Armed Forces of the Philippines (AFP) Chief of Staff Gen. Victor Ibrado;
 - b. Philippine National Police (PNP) Director General Jesus Verzosa;
 - c. Philippine Army Commanding General Lt. Gen. Delfin Bangit;
 - d. Philippine Army Southern Luzon Command (SOLCOM) Commanding General Lt. Gen. Roland Detabali;
 - e. Brig. Gen. Jorge Segovia, Chief, 2nd Infantry Division, Philippine Army;
 - f. Col. Aurelio Baladad, Commander, 202nd Infantry Brigade, Philippine Army;
 - g. Lt. Col. Jaime Abawag, Commander, 16th Infantry Battalion;
 - h. P/Supt. Marion Balonglong, Rizal Provincial Police;
 - i. Judge Cesar Mangrobang, Presiding Judge, RTC Imus, Cavite, Branch 22;
 - j. State Prosecutor II Romeo Senson; and
 - k. Senior Assistant Chief State Prosecutor Severino Gana;

2. In particular, the respondent officers of the AFP and the PNP, in addition to filing their Answer, are **STRICTLY ORDERED** to comply with the following directives **UNDER PAIN OF CONTEMPT**:
 - a. **EXPLAIN** the legal basis for the continued detention of complainants in Camp Capinpin, Tanay, Rizal, instead of being transferred to a PNP detention facility, if not in the municipal

jail of Morong, Rizal or the provincial jail of the Province of Rizal;

- b. SUBMIT certified true copies of ALL documents and papers relative to the arrest and detention of the complainants such as, but no limited to, commitment orders, receipts for seized properties, inquest proceedings, complaints, and informations;
- c. SUBMIT the detailed list of all properties and evidence and their description seized from the premises of Dr. Velmonte as well as from the persons of the complainants, in particular:
 - i. Alleged explosives and materials used in their making and their description;
 - ii. Alleged firearms taken from Romeo dela Cruz @ Alfredo Betria, Reynaldo Macabenta, and Del Ayo Overa, *viz.*, two (2) .45 calibre pistols with serial nos. 041362 and 1055923, and a .38 calibre revolver without serial no., including their make and model as well as an official certification from the Firearms and Explosives Division (FED) of the PNP as to the records of registration pertaining to said firearms;
 - iii. Personal items such as bank Automatic Teller Machine (ATM) cards, identification cards, cash, jewelry, cellular phones, laptops, computers, electronic gadgets, and other items of value and SUBMIT an official accounting of said personal property and an official certification from the authorized officer under whose custody said personal properties have been surrendered for safekeeping, to the effect that the same are under his official custody and have not been used under any circumstance for the personal use of any AFP or PNP personnel or any other government employee; and
 - iv. Personal documents and papers, including alleged subversive publications, whether in hard or electronic copies, and a description of the same.
- d. EXPLAIN why the personal properties and effects of the complainants not subject to confiscation and not illegal in nature should not be surrendered to their counsel or relatives; and
- e. STRICTLY AND UNCONDITIONALLY OBSERVE, FOLLOW and IMPLEMENT the provisions of Republic Act No. 7438

(Rights of Persons, Arrested, Detained or under Custodial Investigation), in particular:

- i. GRANT access at all hours of day and night to the counsels of the complainants without any conditions and restrictions whatsoever not otherwise provided for in the law, in accordance with RA 7438 and Sec. 14, Rule 113 of the Rules of Court;
 - ii. GRANT access at all hours of day and night to relatives, physicians and medical personnel, including psychologists and psychiatrists, especially in light of the alleged mental and physical torture to which the complainants were subjected and continue to be subjected to, including for purposes of rendering the appropriate medical and emergency care to the complainants; and
 - iii. GRANT access to priests or religious ministers and non-government organizations, both local and international, in accordance with R.A. 7438.
3. State Prosecutor II Romeo B. Senson is **DIRECTED** to explain in his Answer the alleged deprivation of the right to counsel of the complainants during the supposed conduct of the inquest proceedings in Camp Capinpin, Taytay, Rizal as well as a detailed description of the manner of his conduct of said inquest proceedings.
4. Judge Cesar Mangrobang is **DIRECTED** to explain in his Answer the circumstances surrounding the issuance of the search warrant against Mario Condes, and whether he was informed that the same was going to be used against the complainants as suspected members of New People's Army, instead of one Mario Condes residing in Brgy. Maybangcal, Morong, Rizal, and why the same was issued without describing with particularity the place and location of the premises to be searched.
5. The other respondents, namely, President Gloria Macapagal-Arroyo, Secretary of National Defense Norberto Gonzales, Secretary of Interior and Local Government Ronaldo Puno and Secretary of Justice Agnes Devanadera, are **DIRECTED** to file their respective COMMENT on the Complaint within the period provided above.
6. Finally, as it goes without directing, the AFP and PNP officers in charge of the detention and custody of the complainants, and all lower-ranking officers and enlisted men under their command, are

ENJOINED from committing the prohibited acts of torture provided for in Republic Act No. 9745 (Anti-Torture Act of 2009), both physical and mental, as provided for in Section 4 (a) and (b) thereof.

ORDER OF HEARING

The hearing of this case will be held on **18 March 2010, Thursday**, at **9:00 a.m.** at the Commission on Human Rights Conference Room, SAAC Bldg., UP Complex, Commonwealth Ave., Diliman, Quezon City. The following are **ORDERED** to be present at said hearing UNDER PAIN OF CONTEMPT:

1. Brig. Gen. Jorge Segovia, Chief, 2nd Infantry Division, Philippine Army;
2. Col. Aurelio Baladad, Commander, 202nd Infantry Brigade, Philippine Army;
3. Lt. Col. Jaime Abawag, Commander, 16th Infantry Battalion;
4. P/Supt. Marion Balonglong, Rizal Provincial Police;
5. Judge Cesar Mangrobang, Presiding Judge, RTC Imus, Cavite, Branch 22;
6. State Prosecutor II Romeo Senson;
7. Dr. Melecia Velmonte; and
8. Mr. Jose Manuel Velmonte

The AFP or PNP custodians of the complainants/detainees are also hereby **ORDERED** to present the complainants/detainees before the Commission in said hearing for the following purposes which necessitate their physical presence:

1. To affirm under oath before the Commission the contents of their affidavits as attached to the complaint; and
2. To answer clarificatory questions from the Commission, as well as from the respondents or their counsels, coured through the Commission, on matters and facts as alleged in the complaint and supporting affidavits.

SO ORDERED.