



Republika ng Pilipinas

Komisyon ng Karapatang Pantao
(Commission on Human Rights)

19 September 2008

LT. GEN. ALEXANDER B. YANO

Chief of Staff

Armed Forces of the Philippines

Camp Gen. Emilio Aguinaldo

Quezon City

Dear Lt. Gen. Yano:

The Commission on Human Rights (CHR), through the undersigned Chairperson, is writing to draw your attention to the 16 September 2008 incident at the Philippine Marine Corps Headquarters and **to protest the resulting denigration of the visitorial powers of the CHR**, a constitutionally mandated power provided in **Article XIII, Section 18 (4) of the 1987 Constitution**:

“The Commission on Human Rights shall have the following powers and functions:

xxx

“(4) Exercise visitorial powers over jails, prisons or detention facilities;

xxx”

Armed with a Mission Order dated 16 September 2008, the CHR Composite Team (composed of Dr. Reynante Basas, Atty. Diana de Leon, Dr. Joseph Andrew Jimenez, Julius Schuck and Marcial Sanchez), along with the team from the House of Representatives Committee on Human Rights (headed by its Chairman, Rep. Lorenzo Tañada III, and Reps. Teofisto Guingona III, Satur Ocampo, Risa Hontiveros-Baraquel, Roman Romulo, Rozzano Ruffino Biazon and Luzviminda Ilagan), proceeded to visit detained military officers Capt. Dante Langkit, ISG, Philippine Army and Lt. Berlinda Ferrer at Fort Bonifacio. However, the Team was prevented by Lt. Col. Iluminado Lumakad, Commanding Officer of the Philippine Marine Corps Headquarters Battallion, from proceeding with its mission, and was denied the exercise of its visitorial powers.

Lt. Col. Lumakad assiduously invoked the necessity of procuring prior clearance from the “higher ups” as purportedly required by a Republic Act and by the policy of the military institution. He added that, after conferring with his superior, whom he initially refused to name but he later identified as Gen. Dolorfino, he was informed that a **written order was issued directing that the CHR Team be disallowed from**

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Commonwealth Avenue, U.P. Complex, Diliman, 1101, Quezon City, Philippines

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enforcing its visitorial power. However, despite demands made by the CHR Team and the members of the House of Representatives that the alleged written order be produced, Lt. Col. Lumakad **refused to present the same.**

The undersigned was then on her way to join the Team, but was advised through a phone call from Dr. Basas, Director of the Assistance and Visitorial Office (AVO) of the CHR, not to proceed anymore as **Lt. Col. Lumakad refused to respect the CHR's constitutionally mandated visitorial powers** despite pleas and appeal from the CHR Team and the members of Congress.

Time and again, the CHR has persistently and consistently asserted that the constitutional mandate of the CHR is completely clear in its meaning and intention and, hence, no amount of preconditions or restrictions may be imposed to bring to life its powers. The CHR's powers, as expressly enshrined in the 1987 Constitution, are self-executory, requiring no enabling law or compliance with prior conditions.

The intended visit to the concerned military officials at Fort Bonifacio is merely a continuation or part of the congressional inquiry of the Committee on Human Rights of the House of Representatives, held on 27 May 2008, re: the complaint of the wives of detained military officials, wherein the undersigned was invited as one of the resources persons. It was in the said congressional hearing that the CHR and the Committee agreed to conduct joint visitations or inspections of the detention facilities where the concerned military officials are being held. It was pursuant to this agreement that, on 25 June 2008, the first visit/inspection was conducted at the Custodial Center of the Intelligence Service of the Armed Forces of the Philippines (ISAFP). The CHR Team, along with members of the House Committee on Human Rights, **was immediately permitted to visit and confer with detained military officers** Maj. Gen. Renato Miranda, Col. Orlando de Leon, Col. Ariel Querubin, Lt. Col. Eduardo Malabanjot, Maj. Jason Aquino and Staff Sgt. Francisco Bosi, Jr., **and to conduct inspection of their detention facilities.**

The CHR was immensely encouraged by this demonstration of full cooperation and transparency by the AFP in that 25 June 2008 visit. It gave us reason to believe that the AFP is truly one with the CHR in working towards the promotion and protection of the human rights of all. In fact, we in the Commission consider the successful conduct of jail visitations as one of the most positive accomplishments of the first one hundred days of the Fourth Commission. We were proud to call the AFP our ally in the pursuit of our vision of a government committed to human rights standards, norms and practices.

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The incident of September 16, however, appears to be incompatible with the AFP's affirmed commitment to cooperate with the CHR. The apparent inconsistency in the official acts of the AFP has put us into a quandary as to the true policy of the military with regards to according due respect to the visitorial powers of an independent constitutional commission. The uncertainty and discord created by the incident will not do either of our institutions any good.

It is, therefore, in this light that the undersigned strongly states her **request for your office to issue the necessary order or directive, enjoining your officers to accord respect to the Commission on Human Rights in the exercise of its constitutional powers.** Beyond putting on record our utter condemnation of the acts of Lt. Col. Lumakad, the more imperative object of this communication is to seek the positive action of your good office.

We are confident that giving due course to this request will not cause any hardship on your part as the AFP has, on previous occasions, already demonstrated the disposition and capacity to honor the exercise of the CHR's visitorial powers. All that the Commission asks for is consistency, fidelity and sustained commitment.

For the cause of human rights, we remain,

Very truly yours,

LEILA M. DE LIMA

Chairperson

CC: Rep. Lorenzo R. Tañada III
Chairman, Committee on Human Rights
House of Representatives

LML-L-19I08-_____