



COMMISSION ON HUMAN RIGHTS  
PRESS STATEMENT  
11 MARCH 2010

---

**CHR on CA Morong 43 Habeas Corpus Decision: It's Time to Re-Examine The Human Rights Impact of Curative Informations**

On March 9, 2010, the Court of Appeals, through a Special Division of Five chaired by Justice Portia Alino-Hormachuelos, issued a decision on the Habeas Corpus Petition of the detained health workers known as the Morong 43. After previously failing to arrive at the required unanimous vote in a Division of Three, the Court of Appeals now voted to deny the Petition, 3 to 2.

Reacting to the decision, Chairperson Leila De Lima said, "The propriety of the Habeas Corpus Petition is still a matter *sub judice*, and it not our role to preempt the courts before the matter is settled with finality. The petitioners appear bent on taking this all the way to the Supreme Court."

"However," De Lima continued, "the dissenting Justices Pizarro and Acosta do make a very compelling point about reviewing the jurisprudential development of 'curative informations' and re-examining our obeisance to the doctrine established by Ilagan vs. Enrile, which is a martial law-era decision."

The majority opinion of the March 9 Decision of the Court Appeals dispensed with the habeas corpus petition by referring to a long line of Supreme Court decisions which held that these petitions cannot be granted when a valid information had already been filed against the persons allegedly detained illegally. The information filed effectively "cures" any illegality attending the search, arrest and detention of petitioners for habeas corpus relief, and hence, the term "curative informations".

The Dissenting Opinions admit the jurisprudential history of 'curative informations', but stress that the illegality of searches, arrests and inquests

should not ripen into a valid Criminal Information. The dissenting magistrates emphasized the express duty to strike down and nullify illegal searches and arrests, in keeping with the Bill of Rights and the Constitution. This duty to protect rights is incongruent with the notion that precedent illegality can be corrected by a criminal information, founded precisely on the illegal precedents, and thus, is equally illegal.

De Lima said, "While it is true that courts must adhere to judicial precedents, especially for the purpose of maintaining uniformity of rulings, the same courts are capable of overturning themselves if the current circumstances dictate a change."

"Does our appreciation of human rights today differ significantly from our appreciation of the same back in 1985, the time of the Ilagan vs. Enrile case? I should hope so. But does it now require change in jurisprudence? At the very least, I believe it deserves more than a scant re-examination, and the CHR joins the public clamor for this re-examination of this still-prevalent practice of filing curative informations. We had seen this before, in the suspicious campaign to hold militants in detention, to languish in jail."

"The most important point of deviation between the majority opinion and the dissent," De Lima continued, "is whether the court should look past the 'curative informations'. To thoroughly examine all the conditions behind the detention of a person is within the prerogative of a court hearing a habeas corpus petition."

"But the prerogative becomes a duty," De Lima added, "as in the duty to animate the protective mantle enshrined in the Bill of Rights, especially where the coercive power of the State appears to be patently illegal – which, in this, case is the search conducted on the strength of a warrant which fails in its specificity.

"In this day and age, with our growing awareness and new appreciation for human rights, against a backdrop of a decade marked by our adamant defiance to and rejection of crimes of impunity, is it still acceptable to 'cure' human rights encroachments? This is essentially the compelling argument of the dissenting justices," De Lima mused. "It is now up to the Judiciary to decide the course of jurisprudence on this matter. At best, we may be at the cusps of a future landmark decision that further galvanizes human rights protection. We should always aspire for the development of human rights thought. At worst, we

remain where we are.”

Asked whether the decision affects the conduct of the CHR public inquiry on the Morong 43 case, De Lima responded, “No, it does not affect our role in the Morong 43 dilemma. This is why we won't comment extensively on the habeas corpus case. The illegality of the search, arrest and detention referred to in the CA Decision, which the majority believes is better left for the RTC and MTC of Morong, Rizal to decide, are the same aspects of the case which the CHR will inquire into, as part of mandate to conduct independent investigations.” Aside from the issues of the legality of search, arrest and detention, CHR is also looking into the allegations of torture, physical and/or mental/psychological, and other human rights violations.

De Lima added, “It has been made clear that the warrant lacks specificity, and this is not denied in both the majority and dissenting opinions. We will still look into the legality of the warrant. But for every other aspect of the Morong 43 case, we will thoroughly investigate the human rights repercussions of other acts carried out by all government personnel, from the military unit which conducted the search and initial arrest to the public prosecutor who conducted the inquest. We will not preempt our own investigation by agreeing or disagreeing with a CA Decision that is not final and executory.”

The CHR is set to conduct its own public inquiry on the Morong 43 case on March 18, 2010.