



A PRIMER ON THE ILLEGAL ARREST, DETENTION AND TORTURE OF 43 HEALTH WORKERS

Free
the **43** Health Workers

**PROHIBITED ITEMS DURING
VISIT WITH THE DETAINEES**

- 1) FOOD
 - 2) CELL PHONES
 - 3) CAMERA
 - 4) VOICE RECORDER
 - 5) BLADED WEAPONS
 - 6) DRUGS
 - 7) LIQUOR & OTHER
INTOXICATING BEVERAGES
- ?) HUMAN RIGHTS

Who are the 43 health workers?

The 43 health workers, also known as “Morong 43”, are health professionals and volunteer community health workers who were arrested in Rizal on February 6, following a raid by the combined forces of the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP).

The 43 were part of a Community First Responders’ Health Training sponsored jointly by the Community Medicine Development Foundation (COMMED) and the Council for Health and Development (CHD). The training was held at the residential compound located at 266 E. Dela Paz St., Brgy. Maybangcal, Morong, Rizal. The compound is owned by Dr. Melecia Velmonte, chairperson of COMMED’s Board of Directors and a renowned and respected infectious disease specialist and a professor emeritus of the University of the Philippines (UP) College of Medicine.

On February 6, 2010 at 6:15 am, joint elements of the 202nd Infantry Brigade of the Philippine Army (202nd IBPA) headed by its commander, Colonel Aurelio Baladad and the Rizal Provincial Police (PNP) headed by Police Superintendent Marion Balonglong raided the I compound of Dr. Velmonte.



The public officials and cabinet secretaries also responsible for gross violations of Constitutional rights following the doctrine of command responsibility include National Security Adviser Norberto Gonzales, the Department of the Interior and Local Government Secretary Ronaldo Puno.

Meanwhile, the public officers who are also exercising command responsibility over the 202nd IB, 2nd ID PA and the Rizal Provincial Police, PNP and directly responsible for the illegal search, illegal arrests, physical and mental torture and other blatant violations of the Constitutional rights of the 43 doctors and health workers are Gen. Victor Ibrado, the Chief of Staff of the Armed Forces of the Philippines; Lt. Gen. Delfin Bangit, the Commanding General of the Philippine Army; Lt. Gen. Roland Detabali, Commanding General, SOLCOM, Philippine Army; Brig. Gen. Jorge Segovia, Chief of the 2nd Infantry Division, Philippine Army; Col. Aurelio Baladad, Commander of the 202nd Infantry Brigade, Philippine Army; Lt. Col. Jaime Abawag, Commander of the 16th Infantry Battalion; Philippine National Police Director General Jesus Verzosa; and P/Supt. Marion Balonglong of the Rizal Provincial Police.

In the same vein, the Honorable Judge Cesar Mangrobang is also responsible for the issuance of the bogus and constitutionally defective Search Warrant that the military and police officers used to justify the raid of the farmhouse located at 266 Dela Paz St., Brgy. Maybangcal, Morong, Rizal.

State Prosecutor II Romeo Senson, the Department of Justice Prosecutor who conducted the defective inquest of the 43 doctors, nurses and medical workers and issued the Resolution indicting them with trumped-up charges, and Senior Assistant Chief State Prosecutor Severino Gaña, the reviewing prosecutor who signed the findings of Prosecutor Romeo Senson, and Department of Justice Secretary Agnes Devanadera are accountable for their complicity in the efforts to legitimize the military and police’s commission of human rights violations.”

WE DEMAND an end to the counter-insurgency program OBL, which has targeted unarmed civilians accused of supporting the NPA, in the name of fighting insurgency.

WE CALL on freedom-loving people to make a stand for human rights and condemn in the strongest terms the human rights violations perpetrated with impunity by the Arroyo government. ###

What are the implications of the arrest of the 43 health workers?

The illegal arrest, illegal detention and torture committed against the 43 health workers by the AFP are clear violations of human rights. The methods resorted to by the military are clearly unconstitutional, show a blatant disregard for the rule of law and pose a grave threat to ordinary Filipinos everywhere.

This incident is disturbing for health professionals and health science students as it imperils the people's initiatives and efforts to build their own capacity and capability to manage their health needs in the absence of adequate public service.

For health professionals who may be considering the option of public service, this incident has a chilling effect. For the community-oriented academe, this single act of the military could undo decades of encouraging graduates to stay in the Philippines and create the necessary exposure and experience in community-based health trainings

This will deprive the people of much needed health services which will worsen the already deplorable state of health.

What are our demands and calls?

The campaign "FREE THE 43" demands the immediate and unconditional release of the 43 health workers who were illegally arrested in Morong, Rizal and are currently illegally detained in Camp Capinpin, Tanay, Rizal. We also demand that all the false charges against them be dropped.

We hold to account all the government officials involved in the illegal arrest, detention and torture of the 43 including those who have command responsibility over the military and police forces directly involved in the incident.

The complaint filed before the CHR states those responsible as:

"The President of the Republic of the Philippines herself, Her Excellency Gloria Macapagal-Arroyo is primarily responsible as Commander-in-Chief under the principle of command responsibility because she knew or, owing to the circumstances at the time, should have known that the state forces were committing or about to commit the crimes stated in this complaint.

Among those arrested were 2 doctors, 1 registered nurse and 2 midwives and 38 volunteer community health workers.

They are :

1. Merry Clamor y Mia, 33 y/o, medical doctor, CHD staff
2. Alexis Montes y Sulinap, 62 y/o, medical doctor, Commed volunteer
3. Gary Liberal y Apuhin, 43 y/o, registered nurse, AHW
4. Ma. Teresa Quinawayan y Roncales, 26 y/o midwife, CHD staff
5. Lydia "Del" Ayo Obera, 61 y/o, AHW staff & health educator
6. Reynaldo Macabenta y Torres, 30 y/o, CHD staff
7. Angela Doloricon y Manogon, 50 y/o, health educator
8. Delia Ocasla y Medrano, 46 y/o, community health worker
9. Janice Javier y Quiatchon, 22 y/o, community health worker
10. Franco Remoroso y Bilugan, 28 y/o community health worker
11. Linda Racel Otanez, community health worker
12. Pearl Irene Martinez y de los Reyes, 25 y/o community health worker
13. Eleonor Carandang y Orgena, 30 y/o community health worker
14. Danny Piñero, community health worker
15. Ray-om Among, community health worker
16. Emily Marquez y Manguba, 23 y/o community health worker
17. Emilia Marquez y Manguba, 20 y/o, community health worker
18. Jane Ballea y Beltran 27 y/o, community health worker
19. Glenda Murillo y Cervantes, 26 y/o, community health worker
20. Eulogio "Ely" Castillo, community health worker
21. Jovy Ortiz y Quidor, 23 y/o, community health worker
22. Samson Castillo y Mayuga, 42 y/o, community health worker
23. Miann Oseo y Edjao, 31 y/o, community health worker
24. Sylvia Labrador y Pajanustan, 43 y/o, community health worker
25. Lilibeth Donasco, 24 y/o, community health worker
26. Jenilyn Vatar y Pizarro, 19 y/o, community health worker
27. Ramon de la Cruz y Santos, 21 y/o, community health worker
28. Jaqueline Gonzales, community health worker
29. Maria Elena Serato y Edeo, 35 y/o, community health worker
30. Ma. Mercedes Castro y Icban, 27 y/o, community health worker
31. Leah de Luna y Bautista, 28 y/o, community health worker
32. Judilyn Oliveros Y Abuyan, 26 y/o, community health worker
33. Yolanda Yaun y Bellesa, 51 y/o, registered midwife
34. Edwin Dematera y Bustamante, 37 y/o, community health worker
35. Cherielyn Riocasa Tawagon, 31 y/o, community health worker
36. John Mark Barrientos y Roldan, 20 y/o, community health worker
37. Mark Escartin y Esperida, 20 y/o, community health worker
38. Julius Duano, 30 y/o, community health worker
39. Ronilo Espera, 31 y/o, community health worker
40. Romeo de la Cruz, 53 y/o, community health worker
41. Valentino Paulino y Abale, 35 y/o, community health worker
42. Ace Millena, community health worker
43. Lorelyn Saligumba, community health worker

Why were they arrested?

The arresting authorities claim that the 43 health workers were caught in the act of undergoing training on bomb-making and that they are members of the New People's Army (NPA). The arresting authorities claim to have found firearms and explosives in the premises where the 43 were staying.

The military allege that they found C4 explosives, a pistol with seven bullets, three grenades (one allegedly found under a pillow) and some improvised landmines beside the grenade. However the search was conducted without being witnessed by Dr. Velmonte, any other house occupant, or independent witnesses such as baranggay officials. According to witnesses, the military conducted the search in the compound premises only after all the victims as well as the house owners and their house help were already outside the buildings.

Were the arrests legal?

No, the arrests were illegal. These were based on a patently defective February 5, 2010 search warrant issued by Judge Cesar Mangrobang of Branch 22 of the Imus, Cavite Regional Trial Court. The warrant was issued against a certain Mario Condes of Barangay Maybangcal, Morong, Rizal on allegations of illegal possession of firearms. It did not specify any address except for the name of the barangay. The house raided was not that of Mario Condes but that of Dr. Velmonte. There is no Mario Condes among the 43 arrested.

Were there violations of the rights of the 43 health workers?

Yes, there were gross violations of the right to due process, the right against illegal searches and seizures and the right against torture.

1. Violations in securing the search warrant

As stated earlier, the search warrant was patently defective and issued with grave abuse of discretion. The warrant did not indicate any exact address and in effect covered the entire baranggay, thus violating the rights of the accused against unreasonable searches and seizures. The house that was searched was not indicated in the warrant and did not belong to "Mario Condes".

Just recently, on February 23, 2010, Ronald Capitania, a community health worker of Sipalay, Negros Occidental was shot by two unidentified bonnet-clad men on a motorcycle. Luckily, he survived the attack.

On February 11, 2010, Benjei Faldas, a community health worker in Davao del Sur was reportedly charged with frustrated murder following the wounding of a CAGFU member in an encounter with the New People's Army. He is prevented from performing his duties as a community health worker.

In July last year, Dr. Reynaldo Lesaca Jr., a respected psychiatrist at the National Kidney and Transplant Institute and chairperson emeritus of the Health Alliance for Democracy (HEAD), filed a complaint before the CHR regarding his inclusion, together with four Davao-based doctors, in the military's "Order of Battle" thus making him vulnerable to being targeted for "neutralization" by military and paramilitary "death squads".

This was a month after another Davao-based physician, Dr. Rogelio Peñera, was shot and killed by motorcycle-riding assailants near his house in Davao City.

In 2008, Dr. Oliver Gimenes, a community-based doctor serving farmers' communities in Cebu and Bohol, was placed under surveillance by the military and was vilified as a "rebel sympathizer". He was later charged with murder in a questionable criminal case stemming from an NPA raid of a military detachment.

In 2007, sisters Emilia and Maricris Quirante, both community health workers of Guihulungan Mountain Clinic in Negros Oriental were arrested for trumped-up charges of child abuse and rebellion.

In July 2006, unidentified armed men ambushed Dr. Chandu Claver and his family in Kalinga province. The attack killed Dr. Claver's wife, Alyce, seriously injured Dr. Claver himself, and traumatized their young daughter.

These attacks share several characteristics: they are politically-motivated; they are directed against those who serve poor communities or underserved sectors; the government attempts to justify these attacks by red-baiting the victims; and they have all been all perpetrated with impunity.

As the government's self-imposed deadline to defeat or "render inconsequential" the communist-led armed revolutionary movement draws near, the military will even be more hard-pressed to show results. Thus, human rights violations are bound to continue and even escalate.

non-government organizations (NGOs) like CHD and COMMED play an important role by bringing health services to the people. This means that these non-government organizations try to reach poor and underserved communities, set up community-based health programs, organize health committees, and train community health workers (CHWs). This way, the poor people living in urban and rural areas can attend to their health needs in the absence or dearth of government services.

For 37 years, community-based health program practitioners have been training volunteers who would like to become CHWs regardless of their educational attainment. CHD, for example, has trained tens of thousands of community health workers nationwide. Training participants are selected by the people themselves with little regard to their educational and socio-economic background nor their religious or political beliefs, so as long as they commit themselves to serving the people in their communities.

The Community First Responders' Health Training is one of the courses CHD offers to community health workers. The training is in response to the assessed needs of the communities after the disastrous effects of the lack of disaster preparedness in the wake of tropical storms "Ondoy" and "Pepeng". The community health workers are also the frontliners in providing health services during disasters, so additional health skills are needed for them to be able to respond adequately, especially since many communities have no access to government health services.

Is this the first time doctors, health workers and volunteers have become victims of human rights abuse?

No, there have been similar attacks against health workers in the past. These can be better understood in the context of the government's counterinsurgency programs, most especially the Arroyo regime's US-supported Oplan Bantay Laya (OBL) or Operation Freedom Watch.

The illegal arrest and detention of 43 doctors and health workers is directly linked to OBL. The latter has given rise to a rash of extrajudicial killings, enforced disappearances, torture, illegal arrests and detention and mass displacement of poor communities. Under OBL the military has been given a carte blanche by the Arroyo regime to disregard the most basic tenets of due process and human rights. For the AFP, once a person is accused of being an "insurgent" or "terrorist", he or she is guilty until proven innocent. This is the kind of militarist mindset that the Arroyo regime has in pursuing its counter-insurgency program.

The military has a track record of targeting several other doctors and health personnel.

2. Violations during arrest

The 43 were arrested without any warrants of arrest; they were not informed of the reasons for their arrest nor where they were being taken. All throughout they were denied the right to call a lawyer.

All the training participants were frisked and ordered to line up outside the house. They were immediately handcuffed, interrogated and photographed by the military. Their personal belongings were confiscated. The military used old shirts and packaging tape which they brought with them to blindfold all the participants before loading them onto several trucks.

3. Violations during detention

For five days, the 43 were denied their right to counsel. During the first 36 hours of their detention, the 43 were not informed of the reasons why they were being held. They were subjected to continuous interrogation and were being forced to admit that they were members of the NPA. Their fingerprints were taken while they were blindfolded.

Only during the inquest proceedings on the second day were they finally informed of the charges being levelled against them. The prosecutor from the Department of Justice (DOJ), State Prosecutor II Romeo Senson, simply called out their names, then read the charges against them. The 43 were denied their right to counsel even during the inquest proceedings.

There were several accounts of torture and ill-treatment as attested to by the detainees and the Commission on Human Rights (CHR). The AFP violated several provisions of Republic Act No. 9745 or the Anti-Torture Law: both physical and psychological torture were inflicted on the 43. These include: being blindfolded and handcuffed for 36 hours; being subjected to multiple and prolonged tactical interrogation with death threats, harassment and intimidation; being deprived of sleep and urgent medication; being manhandled and beaten; being denied legal counsel for days; being denied medical treatment; being coerced to wrongly make admissions and implicate others; and being subjected to various indignities during their captivity. Some were held incommunicado and some remain in solitary confinement up to now.

Some detainees who were blindfolded and handcuffed were also subjected to the indignity of having their captors lower their pants and underwear just so they could relieve themselves.

The 43 remain detained in a military camp when they should have been transferred to a civilian detention facility especially after charges were filed against them in court.

Have the 43 health workers been charged in court?

Despite all the violations of due process committed by the AFP, PNP and the DOJ, charges of illegal possession of firearms and explosives and violations of the Commission on Elections (Comelec) gun ban were filed against the 43 at Branch 78 of the Rizal Regional Trial Court in Morong. The charges were only filed on February 11, five days after they were arrested. Forty of the accused face non-bailable offenses (illegal possession of explosives). Clearly, the purpose of the hasty filing of said charges is to attempt to cure violations of due process and justify the continued illegal detention of the 43.

Were the health workers really members of the NPA? Were they really making bombs at the time of their arrest?

The military has made the sweeping accusation that the 43 are members of the NPA. Their proof consists of the firearms and explosives allegedly found in the premises of Dr. Velmonte. But the accounts of Dr. Velmonte and her household give sufficient ground to believe that the firearms and explosives were planted by the military/police.

Mere membership in the NPA cannot be used as basis for a warrantless arrest. Jurisprudence tells us that an overt act or an actual crime (in this case, taking up arms against the government) must first be committed to justify an arrest. There was no shoot-out at the time of the arrest; the 43 and Dr. Velmonte's household were either doing their morning ablutions or getting ready for breakfast. It is a stretch of the imagination to claim that the 43 health workers were caught in the act of making bombs as early as 6:00 am when they were arrested.

What the military did was to fabricate and plant evidence and then accuse the health workers as NPA members, to justify their warrantless arrest and illegal detention.

The military has since concocted many versions of who the 43 really are. At first, the military alleged that the 43 were not health workers but bomb-makers. Later, the military would allege that the 43 were indeed health workers but were also undergoing training in making explosives. The military now calls them "medics" of the NPA.

The military also goes on to make the preposterous claim that Dr. Alexis Montes, a 62-year old surgeon, is a member of the NPA Special Operations Group tasked to assassinate Gen. Jovito Palparan.

According to CHR Chair Leila de Lima, even assuming for the sake of argument that the 43 health workers are NPA members, they still have the right to due process, including the presumption of innocence and the right to be free from torture and other degrading treatment.

Have the 43 health workers taken legal action? What has been done to secure their release?

The health workers through their relatives and their organizations have filed before the Supreme Court a petition for the writ of habeas corpus last February 9. The Supreme Court ordered the AFP to produce the 43 at the hearing at the Court of Appeals on February 12, 2010. The military defied the SC by not bringing the 43 to the scheduled hearing citing alleged security reasons and lack of time to prepare. The AFP received a strong rebuke from the CA and was ordered to produce the 43 at another hearing on February 15. As of this writing, the CA has yet to issue its decision on the petition.

A complaint has also been filed before the Commission on Human Rights (CHR), asking it to investigate the allegations of rights abuses committed against the 43. The CHR has issued the order for the AFP to present the Morong 43 before the Commission in a scheduled hearing on March 18.

Who are supporting campaign to free the 43?

The campaign "Free the 43" is supported by a broad range of sectors of society, from colleagues in the health professions, lawyers, lawmakers, political leaders across party lines, religious formations, human rights advocates, artists, and advocates and beneficiaries of community-based health programs where the community health workers render their services. It is a national and international campaign calling on the Arroyo government to immediately release the Morong 43 and drop all charges against them. It is a campaign that supports the legal defense of the 43 and undertakes advocacy work and mobilizations. The campaign also supports the immediate needs of the families of the 43 in terms of visits, psycho-social counselling and other forms of concrete assistance.

Why are there volunteer community health workers?

In the Philippines, where seven out of 10 Filipinos die without ever seeing a doctor and where public health services are sorely lacking or inaccessible,