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Republika ng Pilipinas
Komisyon ng Karapatang Pantao
(Commission on Human Rights)

HUMAN RIGHTS ADVISORY
CHR-A2005-001



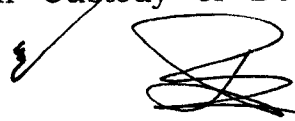

**“ADVISORY ON THE EXERCISE OF VISITORIAL POWERS
OF THE COMMISSION ON HUMAN RIGHTS”**

Section 18, Art. XIII of the 1987 Constitution specifically grants the Commission on Human Rights certain powers and functions, among which are the following:

- I) Investigate, on its own or on complaint by any party all forms of Human Rights Violation involving civil and political rights;
- II) Protect the rights of all persons within the Philippines, as well as Filipinos residing abroad;
- III) Exercise visitorial powers over jails, prisons, or detention facilities;
- IV) Monitor the Philippine Governments compliance with international treaty obligations on human rights;
- V) Request the assistance of any department, bureau, office or agency in the performance of its agencies.

Conformably with the constitutionally mandated function of the Commission on Human Rights, government agencies, such as the Department of Interior and Local Government, Department of Justice, Department of National Defense, Armed Forces of the Philippines and Philippine National Police had manifested to support the Commission on Human Rights and affirmed their responsibility to uphold justice and protect the human rights of the people.

Accordingly, on May 6, 1988, said government agencies and the CHR issued a Joint Declaration of Undertaking on the CHR Guidelines on Visitation and the Conduct of Investigation, Arrest, Detention and Related Operations and the 1991 Memorandum of Agreement on the Procedures in the Release from Custody of Detainees or Accused Persons.

   
Ang Karapatang Pantao ay para sa lahat. Panindigan natin ito.
Commonwealth Avenue, U.P. Complex, Diliman, 1101, Quezon City, Philippines
Tel. Nos. 927-0172 • 928-2018

Item 3.2 of the Guidelines states:

“Commanders and elements of all units under their command shall extend maximum cooperation and courtesy to members of the CHR and/or their authorized representatives in the exercise of their constitutional authority and functions.”

With the passage of RA 7438, the CHR was granted the power to accredit National Non-Government Organizations for purposes of jail visitation. Such grant is a recognition that the CHR is constitutionally mandated to conduct jail visitation and can, as a matter of fact, delegate it.

A recent report showed that CHR Region VII Lawyers and Investigators, tasked to investigate an alleged Human Rights Violation incident at the Provincial Jail of Cebu, were barred from entering the said facility.

Despite demands that they be allowed entry, the OIC Jail Warden, Algier Commendador, insisted that the CHR needs a court order to gain entry.

Let it be known that the refusal of the Jail Warden or any government official, for that matter, to grant access to jails and detention centers to members of the CHR or its duly authorized representatives is a flagrant refusal to cooperate with the CHR thereby hampering its investigative work. This deliberate act of defiance and disrespect to the Commission is actionable. It is a violation of the constitutional mandate of the Commission, the Joint Declaration of Undertaking on **CHR Guidelines on Visitations and the Conduct of Investigation, Arrest, Detention and Related Operations and the Revised Rules of the CHR in the Conduct of Investigation/Hearing of Complaints for Violation of Human Rights.**

This Commission hereby issues a stern warning that any violation shall be dealt with in accordance with Article XIII Sec. 18(2) of the 1997 Constitution, which reads:

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

“Adopt its operational guidelines and rules of procedure, and **cite for contempt for violations** thereof in accordance with the Rules of Court”.

As aptly stated by the Supreme Court in Simon vs. CHR, GR. No. 100150, January 5, 1994:

“On its contempt powers, the CHR is constitutionally authorized to “adopt its operational guidelines and rules of procedure, and cite for contempt violations thereof”. Accordingly, the **CHR acted within its authority in providing in its rules, its power “to cite or hold any person in direct or**

indirect contempt, and to impose the appropriate penalties in accordance with the procedure and sanctions provided for in the rules of court.” That power to cite for contempt, however, should be understood to apply only to violations of its adopted operational guidelines and rules of procedures essential to carry out its investigational powers. To exemplify, **the power to cite for contempt could be exercised against persons who refuse to cooperate with the said body, or who unduly withhold relevant information, or who decline to honor summons, and the like, in pursuing its investigative work.”**

The OIC Jail Warden of the Cebu Provincial Jail is hereby warned that a repetition of the act complained of shall be dealt with in accordance with Sec. 2(D) of CHR Resolution No. A89-109-A, Revised Rules of the Commission on Human Rights in the Conduct of Investigation/Hearing of Complaints for Violation of Human Rights, in relation to the 1987 Constitution of the Philippines and other relevant laws and issuances.

The Commission on Human Rights accordingly renders this Human Rights Advisory as reminder to all law enforcement officials and jail authorities.

Let copies of this CHR Advisory be sent of the DOJ, Secretary of the DILG, the Director of the Bureau of Corrections, the Director of the Bureau of Jail Management and Penology and the City and Provincial governments for their information and appropriate action.

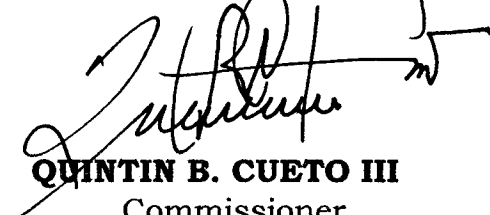
Done in Quezon City this 26th day of January 2005.


PURIFICACION C. VALERA QUISUMBING
Chairperson


ELIGIO P. MALLARI
Commissioner

(on official business)
WILHELM D. SORIANO
Commissioner


DOMINADOR N. CALAMBA II
Commissioner


QUINTIN B. CUETO III
Commissioner



Republika ng Pilipinas
Komisyon ng Karapatang Pantao ng Pilipinas
(Commission on Human Rights of the Philippines)

HUMAN RIGHTS ADVISORY
CHR (IV) – A2012-004

**EVICTION AND HARASSMENT OF
FARMERS/BENEFICIARIES OF THE MATIAS
PROPERTY, SAN FRANCISCO, QUEZON**

Undeniably, a land to till is one of the most basic of all necessities for human survival. It is an indispensable element necessary to the life and development of every human being and the nation as a whole. Written in human history and civilization is the crucial and vital role of land in every aspect of human life. And the struggle for land has been a perpetual undertaking for everyone.

The right to land may not be wholly defined in the international human rights framework, yet, it is invoked in a number of key areas. Landlessness, according to the Institute for Human Rights and Business, is an issue that threatens the enjoyment of fundamental human rights¹. Access to land is necessary for access to a number of economic, social and cultural rights, and as a gateway for many civil and political rights. It affects a broad range of fundamental human rights.

*Elizabeth Wickeri and Anil Kalhan, of the Leitner Center for International Human Rights and Justice*², explicitly discussed the issue of landlessness and its effect on the fundamental rights of an individual, specifically one's right to food. They opined that access to land is necessary to realize the right to food and to be free from hunger. This mirrors the struggle of the farmers of Hacienda Matias in Brgy. Butanguiad and Brgy. Don Juan Vercelos in the Municipality of San Francisco, Quezon.

¹ Land Rights Issues in International Human Rights Law, a concept paper by Elisabeth Wickeri and Anil Kalhan for the Institute for Human Rights and Business, 2011.

² Id.

Karapatang Pantao: Likas Sa Atin, Tungkulin Natin

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RELEVANT FACTS

Hacienda Matias is approximately a 1,716 hectare property of the Matias family, located in both Brgys. Don Juan Vercelos and Butanguiad in the Municipality of San Francisco, Quezon. In 2004, around 121 tenant families petitioned for the inclusion of the land they were tilling under the Comprehensive Agrarian Reform Program (CARP) of the government. In December 2010, a survey of the hacienda was initiated by the Department of Agrarian Reform (DAR) and 639 hectares of the property was then paid by the Land Bank of the Philippines, as a precondition for the transfer of the titles to the Republic of the Philippines. However, the landowner filed a Petition for Exclusion of their property from the CARP, and currently is still pending before the Office of the DAR Secretary. In light of this and, with the subsequent issuance of DAR Administrative Order No. 7 series of 2011, the DAR is inhibited to proceed with the redistribution of the land to the tenant farmers pending the resolution of the said Petition for Exclusion.

As a result of their Petition, farmers were then subjected to various forms of harassments, and worst, were forcibly evicted from the land they were tilling. Affected farmers are now being prevented from reaping the fruits of their crops, consequentially, disconnecting them from their source of food and livelihood.

HUMAN RIGHTS ISSUES

A. SECURITY OF TENURE: ENSURING ACCESS TO LAND AND THE RIGHT TO ADEQUATE FOOD

Essential to the enjoyment of the right to food, is access to land and security of tenure, as recognized under Article 25 of the Universal Declaration of Human Rights (UDHR)³ and Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICCPR).⁴ The right to food requires that each individual, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement.

Olivier De Schutter, U.N. Special Rapporteur on the right to food, in his report to the U.N General Assembly, dated 11 August 2010, averred that *States may be under an obligation to provide food where "an individual or*

³ General Assembly Resolution 217 A (III).

⁴ See General Assembly Resolution 2200 A (XXI), annex.

group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal". Primarily, however, the right to food requires that States refrain from taking measures that may deprive individuals of access to productive resources on which they depend when they produce food for themselves (the obligation to respect), that they protect such access from encroachment by other private parties (the obligation to protect) and that they seek to strengthen people's access to and utilization of resources and means to ensure their livelihoods, including food security (the obligation to fulfil).

The Food and Agriculture Organization of the United Nations Voluntary Guidelines adopted in 2004 also direct states to promote equal access to land ownership, and further state that "[a]s appropriate, States should consider establishing legal and other policy mechanisms, consistent with their international human rights obligations and in accordance with the rule of law, that advance land reform to enhance access for the poor and women."

Jean Ziegler, the United Nations Special Rapporteur on the Right to Food, in his August 27, 2002 report to the United Nations stated that access to land is one of the key elements necessary for eradicating hunger in the world. He noted that many rural people suffer from hunger either because they are landless or, they do not hold secure tenure or their properties are so small that they cannot grow enough food to feed themselves. He was consistent in referring to the State's obligation with respect to the people's right to food, and the necessity of land in respecting, protecting, and fulfilling the right. He asserted that where a state has arbitrarily evicted or displaced people from their land, especially if the land was their primary means of feeding themselves, it has violated the right to food.

Moreover, in taking steps to fulfil the right to food, the state must take proactive steps. The Special Rapporteur noted that this "could mean improving employment prospects, by introducing an agrarian reform programme for landless groups or promoting alternative employment opportunities and has emphasized that "access to land and agrarian reform must form a key part of the right to food."

B. LIBERTY OF MOVEMENT

Upon the farmers' filing of their Petition for their land to be covered by CARP in 2004, the hacienda owner has barricaded the property's boundaries. The farmers and their families are now being prevented from the ingress to and egress from the hacienda. This does not only affect the access of the farmers to places outside of the hacienda but more so, has a

significant effect on the lives of their children who attend schools outside of the hacienda. Farmers and their children are forced to walk a considerable distance just to go in or out of the hacienda, or take the hazardous boat ride in gaining access to their homes. For those who do not have the physical capacity to walk the distance, including school children, they are forced to scale the hacienda fence.


Inherent in every human being is the liberty of movement. Article 13 of the Universal Declaration of Human Rights stipulate:

“Everyone has the right to freedom of movement and residence within the borders of each State. Everyone has the right to leave any country, including his own, and return to his country.”

The right to free movement, or the denial of it, can have profound effects upon other basic human rights. In the case of the affected farmers, it does not only restrict their movement, but it curtails their access to the resources for their survival and to the basic services the state provides. Significantly, it contributes to their struggle to have a normal and dignified way of living. Worse, it endangers their security and safety and that of their respective families.

In light of the foregoing, the Commission urges the Philippine Government, through the Department of Agrarian Reform, to advocate the cause of the landless, by fully implementing the spirit and ideals of the Comprehensive Agrarian Reform Program and, strongly condemns the continuing violation to the rights of the farmers of Hacienda Matias by the hacienda owner.

Issued this 12th day of October 2012 at Quezon City, Philippines.


LORETTA ANN P. ROSALES
Chairperson


CECILIA RACHEL V. QUISUMBING
Commissioner


MA. VICTORIA V. CARDONA
Commissioner


NORBERTO DELA CRUZ
Commissioner


JOSE MANUEL S. MAMAUAG
Commissioner