



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

COMMISSION ON HUMAN
RIGHTS, rep. by
COMMISSIONER KAREN S.
GOMEZ-DUMPIT,

Petitioner,

G.R. No. 257685

Present:

- versus -

LEONEN, S.A.J., Chairperson,
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, JR., JJ.

OFFICE OF THE
OMBUDSMAN, PSUPT
ROBERT C. DOMINGO, PO2
DYLAN VERDAN, PO2
JONATHAN UBARRRE, PO1
BERLY APOLONIO, and
OTHER JOHN DOES,

Respondents.

Promulgated:

JAN 24 2024

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DECISION

KHO, JR., J.:

Assailed in this Petition for *Certiorari*¹ under Rule 65 is the criminal aspect of the Joint Resolution² dated July 28, 2020 and the Joint Order³ dated May 18, 2021 rendered by the Office of the Ombudsman (Ombudsman) in OMB-P-C-17-0193 and OMB-P-A-17-0211 dismissing the criminal and

¹ *Rollo*, pp. 3–57.

² *Id.* at 59–67. Penned by Graft Investigation and Prosecution Officer Myra Dela Rama-Gargaceran with the concurrence of Acting Director, PIAAIPB-C Dyna I. Camba and the recommending approval of Acting Assistant Ombudsman, MOLEO Dennis L. Garcia and approved by Deputy Ombudsman for the Military and Other Law Enforcement Offices Cyril E. Ramos.

³ *Id.* at 68–73.

administrative Complaint filed by petitioner Commission on Human Rights (CHR) against respondents Police Superintendent (PSUPT) Robert C. Domingo (PSUPT Domingo), Police Officer 2 (PO2) Dylan Verdan (PO2 Verdan), PO2 Jonathan Ubarre (PO2 Ubarre), Police Officer 1 (PO1) Berly Apolonio (PO1 Apolonio), and other John Does (collectively, respondents) for lack of probable cause.

The Facts

This case stemmed from a Complaint⁴ filed by the CHR before the Ombudsman charging respondents with violations of: (i) the Revised Penal Code, specifically arbitrary detention, delay in the delivery of detained persons, grave threats, grave coercion, and robbery/extortion; (ii) Republic Act No. 9745,⁵ also known as the Anti-Torture Act of 2009, specifically Section 4(a)(1) to (4) and Section 4(b)(3) and (11); and (iii) the 2013 Revised Philippine National Police (PNP) Operational Procedures (2013 RPNPOP).⁶

The Complaint arose after the CHR visited the Raxabago Police Station 1 (Raxabago PS 1) located in Tondo, City of Manila, then under the command of PSUPT Domingo, in the early evening of April 27, 2017, after taking cognizance of an information about a secret detention cell in the station.

During their visit, the CHR found a room, which it called a “secret detention cell,” inside the Drug Enforcement Unit’s (DEU) office measuring one meter by five meters with a wooden shelf covering its entrance. The CHR described the secret detention cell as cramped, dingy, fetid, and dark, with no lights and windows. Since it only had one male urinal, the CHR claimed that some detainees urinated and defecated in plastic bags.

Inside the secret detention cell were three women and nine men who were allegedly arrested for various violations of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, namely:⁷

Name of Detainee	Period of confinement in the alleged secret detention cell
1. Narcisa Dalisay	Since April 25, 2017
2. Jonard Refran	Since April 25, 2017
3. Swady Guilleno	Since April 23, 2017
4. Arman Andal	1 week
5. Robert Muro	1 week

⁴ *Id.* at 85–87.
⁵ Entitled “An Act Penalizing Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment and Prescribing Penalties Therefor,” approved on November 10, 2009.
⁶ *Rollo*, pp. 86–87.
⁷ *Id.* at 77.

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6. Cesar De Guzman	1 week
7. Chester Garcia	Since April 25, 2017
8. Carlito Garcia	Since April 25, 2017
9. RJ Balingit	1 week
10. Sonny Iglesia	Since April 20, 2017
11. Jervin Cajucom Perez	2 days
12. Grace De Guzman	Since April 20, 2017

The CHR further alleged that: (a) the names of said detainees were not recorded in the logbooks of Raxabago PS 1; (b) the detainees were unlawfully arrested; (c) the detainees were not subjected to inquest proceedings as of April 27, 2017; (d) they were not provided with food; (e) some police officers demanded money in exchange for their release and took money amounting to PHP 12,000.00 from one of the detainees; (f) a detainee expressed his fear of getting killed; and (g) some detainees were physically assaulted and electrocuted with a taser.⁸

To support its allegations, the CHR submitted to the Ombudsman, among others: (a) a video of their confrontation with the personnel of Raxabago PS 1 and the secret detention cell;⁹ (b) photos of the exterior and interior of Raxabago PS 1; (c) Sworn Statements of Josephine O. Sua, Marie Fhear G. Mercadero, and Aquilina H. Nayre;¹⁰ and (d) the Affidavits of Attys. Gilbert Boiser, Brenda Canapi, and Diana B. De Leon, all from the CHR.¹¹

On the part of respondents, only PSUPT Domingo submitted a counter-affidavit. He alleged that the said detainees were lawfully arrested during a legitimate police operation conducted at around 4:30 a.m. on April 27, 2017. Since the documents pertaining to them were still being processed, they were placed in a “holding room” (or what the CHR called a “secret detention cell”) for the following reasons: (1) to separate them from persons deprived of liberty who are already being tried in court; (2) for expediency, since the holding room is near the office of the DEU; (3) to decongest the regular detention cells; (4) to enforce stiffer security measure inside the DEU; and (5) to safeguard the welfare of the police officers. After inquest, detainees in the holding room were either transferred to the main detention cells or released, depending on the findings of the inquest prosecutor.¹²

As to the holding room, PSUPT Domingo explained that the DEU’s office is on Capulong Street, which has a separate ingress and egress. Thus, from Capulong Steet, the holding room can be seen. However, if one is coming from the main office, the holding room could be seen by removing the shelf used as a partition wall. He added that because of budget constraints,

⁸ *Id.* at 61.

⁹ The CHR did not submit this video before the Court.

¹⁰ *Rollo*, pp. 94–98. These individuals are not related to any of the 12 detainees listed in the complaint and merely shared about their relatives who were arrested and detained in Raxabago PS 1.

¹¹ *Id.* at 61.

¹² *Id.* at 62.

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they were forced to be resourceful. PSUPT Domingo claimed that the holding room had sufficient lighting, ventilation (with electric and exhaust fans), water supply, and urinals.¹³ PSUPT Domingo added that on the day the CHR visited Raxabago PS 1, it had 78 men and 18 women detainees despite having a capacity for only 50 detainees.¹⁴ Further, PSUPT Domingo denied the allegations of torture, inhumane treatment, unlawful arrest, and extortion.¹⁵

Notably, PO2 Verdan, PO2 Ubarre, and PO1 Apolonio did not submit their counter-affidavits and position papers.¹⁶

The Ombudsman Ruling

In a Joint Resolution¹⁷ dated July 28, 2020, the Ombudsman dismissed the Complaint docketed as OMB-P-C-17-0193 (the criminal aspect) and OMB-P-A-17-0211 (the administrative aspect) for lack of probable cause.

The Ombudsman ruled that for the allegations of arbitrary detention and delay in the delivery of detained persons to the proper judicial authority, the CHR failed to show by clear and convincing evidence that the detained persons were being held beyond the period allowed by law without a complaint being filed against them.¹⁸ As to the allegations of grave threats, grave coercion and robbery/extortion, maltreatment of prisoners, and violations of Republic Act No. 9745 and the 2013 RPNPOP, the Ombudsman deemed the same to be unsupported by independent, impartial, and credible evidence.¹⁹

The Ombudsman further ruled that the CHR failed to sufficiently controvert the defense that: (1) the DEU, where the room in issue (the “secret detention cell” per CHR and “holding room” per PSUPT Domingo) is located, has a separate ingress and egress along Capulong Street; and (2) that the shelf therein merely served as a wall or partition separating the room from the investigator’s area and the regular detention cells. Likewise, based on the Sworn Statements of the detainees, the Indorsements to the inquest prosecutor, and the Joint Affidavits of Arrest, the detainees were arrested either on April 26, 2017 or April 27, 2017 as a result of the PNP’s “one time, big time” operation or anti-criminality campaign. Considering the number of newly arrested persons, Raxabago PS 1 had them detained in a confined and cramped space.²⁰

¹³ *Id.* at 62–63. *See also* Counter-Affidavit of PSUPT Domingo, *id.* at 293.

¹⁴ *Id.* at 62.

¹⁵ *Id.* at 63.

¹⁶ *Id.*

¹⁷ *Id.* at 59–67.

¹⁸ *Id.* at 63–64.

¹⁹ *Id.* at 64.

²⁰ *Id.*

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Aggrieved, the CHR sought reconsideration which was, however, denied in a Joint Order²¹ dated May 18, 2021.

In the Joint Order, the Ombudsman maintained its findings that the CHR failed to show clear and convincing evidence to support its allegations. The Ombudsman noted that all of the detainees in the room in issue, except Robert Muro, executed Affidavits belying the claims made by the CHR. Relatedly, while detainee Cesar De Guzman recanted his Affidavit and executed a new one now supporting the CHR's allegations of arbitrary detention, delay in the delivery of detained persons, maltreatment, and torture, the Ombudsman ruled that it has basis to question his credibility considering that the official documentation showed otherwise.²²

In addition, the Ombudsman pointed out that the medical check-up conducted on the detainees on different dates²³ yielded no external signs of physical injuries. Furthermore, the documents relating to the arrest of the 12 detainees established that they were arrested on April 27, 2017 (except for detainees Sonny Iglesias and Grace De Guzman who were arrested the previous day) for violation of Republic Act No. 9165. Hence, detainee Cesar De Guzman's Affidavit cannot be given credence.²⁴

The Ombudsman added that the video submitted by the CHR showed only a dark room with a male urinal with insufficient details and that the CHR's description of the detention cell cannot be taken as fact because of the lack of sufficient lighting to support the alleged terrible conditions therein. Hence, the Ombudsman relied on the Affidavits of the detainees, which did not advance the CHR's cause. The Ombudsman noted that on April 27, 2017, the number of detainees (78 men and 18 women) at Raxabago PS 1 exceeded capacity of only 40 men and 10 women and that while the detention cell may be argued as inadequate, respondents were left without much option.²⁵

Hence, this Petition for *Certiorari* assailing OMB-P-C-17-0193 (the criminal aspect). The CHR ascribes grave abuse of discretion on the part of the Ombudsman when it dismissed the Complaint using "clear and convincing evidence" as quantum of evidence instead of "probable cause."²⁶ The CHR claims that with probable cause as the quantum of evidence, it has sufficiently established the crimes charged.²⁷

²¹ *Id.* at 68–73.

²² *Id.* at 70–71.

²³ The dates are as follows: 1) April 27, 2017 at the Gat Andres Bonifacio Memorial Medical Center; 2) April 28, 2017 at the Ospital ng Maynila; and 3) May 2, 2017 at the Manila Police District Crime Laboratory; *id.* at 71.

²⁴ *Id.* at 71.

²⁵ *Id.* at 71–72.

²⁶ *Id.* at 12.

²⁷ *Id.* at 17, 34–35, 37.

Respondents were required to submit their comments. PSUPT Domingo submitted his Comment²⁸ and Supplemental Comment²⁹ attaching his Counter-Affidavit³⁰ and its attachment filed before the Ombudsman. The Ombudsman manifested³¹ in lieu of comment that it will not participate as this would amount to advocating for the innocence or non-culpability of respondents.

The Issue Before the Court

The issue for the Court's resolution is whether the Ombudsman committed grave abuse of discretion when it dismissed the criminal aspect of the Complaint.

The Court's Ruling

The Petition is denied.

Preliminarily, the Court notes that the CHR failed to include in its Petition the attachments to the Counter-Affidavit of PSUPT Domingo, which are considered documents relevant and pertinent to this case. This failure is in violation of Rule 65, Section 1, second paragraph of the Rules of Court. It was PSUPT Domingo who provided the attachments on the Counter-Affidavit in his Supplemental Comment.

Nevertheless, it is well-settled that "[t]he Ombudsman has the discretion to determine whether a criminal case, given its attendant facts and circumstances, should be filed or not. The Ombudsman may dismiss the complaint should the Ombudsman find the complaint insufficient in form or substance, or the Ombudsman may proceed with the investigation if, in the Ombudsman's view, the complaint is in due form and substance. Hence, the filing or non-filing of the information is primarily lodged within the 'full discretion' of the Ombudsman."³²

The Court has consistently adopted a policy of non-interference in the exercise of the Ombudsman's constitutionally mandated powers. The Ombudsman, which is "beholden to no one, acts as the champion of the people and the preserver of the integrity of the public service."³³

²⁸ *Id.* at 442-449.

²⁹ *Id.* at 258-285.

³⁰ *Id.* at 286-309.

³¹ *Id.* at 450-456.

³² *Vergara v. Ombudsman*, 600 Phil. 26, 41 (2009) [Per J. Carpio, *En Banc*].

³³ *Id.* at 42.

In *Arroyo v. Sandiganbayan*,³⁴ the Court, through now Senior Associate Justice Marvic M.V.F. Leonen, held:

“The Ombudsman is endowed with a wide latitude of investigatory and prosecutory prerogatives in the exercise of its power to pass upon criminal complaints.” As a general rule, this Court does not interfere with the Office of the Ombudsman’s exercise of its constitutional mandate. It is an executive function, which must be respected consistent with the principle of separation of powers[.]³⁵

While the Court is not precluded from reviewing the Ombudsman’s action when it is tainted with grave abuse of discretion—which implies a capricious and whimsical exercise of judgment tantamount to lack of jurisdiction—the Court’s *certiorari* jurisdiction pursuant to Article VIII, Section 1, paragraph 2 of the Constitution may be invoked. However, it must be shown that “[t]he Ombudsman’s exercise of its powers must have been done in an arbitrary or despotic manner which must be so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.”³⁶

In this case, it goes without saying that the CHR has the burden of proving that the Ombudsman gravely abused its discretion when it did not indict respondents of the crimes they were accused of committing. In this regard, the CHR argues that the Ombudsman committed grave abuse of discretion in using clear and convincing evidence instead of probable cause as quantum of evidence in the filing or non-filing of information. With probable cause as standard evidence, the CHR alleges that it has established its criminal complaint.

The Court disagrees.

While the Ombudsman stated: (1) in its May 18, 2021 Joint Order, that the CHR “failed to show clear and convincing evidence to support its allegations;”³⁷ and (2) in its July 28, 2020 Joint Resolution, that the CHR “failed to show by clear and strong evidence,”³⁸ it must be correlated to the prior statement of the Ombudsman in its Joint Resolution that the CHR “failed to establish probable cause against respondents[.]”³⁹

A careful reading of the Ombudsman’s Joint Order and Joint Resolution shows that the phrases “clear and convincing evidence” and “clear and strong

³⁴ 869 Phil. 400, 415 (2020) [Per J. Leonen, Third Division].

³⁵ *Id.* at 415.

³⁶ *Ciron v. Ombudsman*, 758 Phil. 354, 362 (2015) [Per J. Perlas-Bernabe, First Division], citing *Soriano v. Marcelo*, 610 Phil. 72, 79 (2009) [Per J. Carpio, Second Division].

³⁷ *Rollo*, p. 70.

³⁸ *Id.* at 64.

³⁹ *Id.* at 63.

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evidence” *do not pertain* to the quantum of evidence necessary to establish the complaint. Rather, in the Court’s view, *the Ombudsman is describing the pieces of evidence presented by the CHR which are not clear, convincing, and strong enough to warrant probable cause*. This is easily shown because when the Ombudsman ruled that the CHR failed to “establish probable cause” for the crimes of arbitrary detention and delay in the delivery of detained persons to the proper judicial authority, the Ombudsman immediately followed it with a statement that the CHR “failed to show by clear and strong evidence that the detained persons were being held beyond the period allowed by law[.]”⁴⁰

Even if the Court goes on the merit of the CHR’s argument that it has established probable cause, the Court finds that the Ombudsman’s appreciation of evidence is correct; that is, the evidence is not enough to establish probable cause, as will be explained hereunder.

Probable cause is defined as the existence of such facts and circumstances as would excite the belief in a reasonable mind, acting on the facts within the knowledge of the prosecutor, that the person charged was guilty of the crime for which they were prosecuted.⁴¹ Probable cause signifies a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious person’s belief that the person accused is guilty of the offense with which they are charged.⁴² The Ombudsman has to find enough relevant evidence to support its belief that the accused most likely committed the crimes charged.⁴³

To recapitulate, the CHR alleged the following to support the criminal complaint against respondents:⁴⁴

23.1 An examination of the logbook of the Raxabago Police Station did not include the names of the Detainees. This means that as of 27 April 2017, the Detainees have not been logged and blotted:

23.2 Furthermore, the Detainees have not been subjected to inquest proceedings for alleged violation of the Comprehensive Dangerous Drugs Act of 2002;

23.3 The Secret Detention Cell had no windows and had no light. It had a very foul smell and had only one (1) male urinal but had no toilet, thus, forcing the Detainees to defecate and urinate in plastic bags;

⁴⁰ *Id.* at 63–64.

⁴¹ *Vergara v. Ombudsman*, 600 Phil. 26, 44 (2009) [Per J. Carpio, *En Banc*].

⁴² *Tetangco v. Ombudsman*, 515 Phil. 230, 235 (2006) [Per J. Quisumbing, Third Division].

⁴³ *Clave v. Office of the Ombudsman (Visayas)*, 801 Phil. 967, 978 (2016) [Per J. Brion, Second Division].

⁴⁴ *Rollo*, pp. 9–10.

23.4 The Detainees were forced to sleep in a sitting position due to the lack of space and beds. Likewise, the police have not provided them food, hence, they had to rely on provisions by their relatives. Some of the Detainees have not eaten for days;

23.5 The Team, after conducting interviews with some of the Detainees, discovered that some of them were beaten and electrocuted with the use of tasers, especially when the police officers were drunk. They mentioned a certain “Antonio” who would usually conduct the beating. The face of one of the detainees was swollen – allegedly as a result of the beatings, while one detainee had a healed wound on the forehead; and

23.6 The Detainees further claimed that the police officers of Raxabago Police Station demanded from them certain amount of money in exchange for their release and would often threaten them when they fail to produce the money, to wit:

Name of Detainee/Relative of Detainee	Amount Demanded by Police
Cesar de Guzman	Fifty Thousand Pesos (P50,000.00) for his release
Narcisa Dalisay and Jonard Refran	Forty Thousand Pesos (P40,000.00) for their release
Arman Andal	Thirty Thousand Pesos (P30,000.00) for his release
Grace de Guzman and Sonny Boy Iglesias	Three Hundred Thousand Pesos (P300,000.00)

The Ombudsman dismissed the Complaint after finding that: (a) the detainees were either arrested on April 26 or 27, 2017 based on indorsements to the inquest prosecutor and joint affidavits of arrest, and there was no showing that the detainees were detained more than the allowable time; (b) the sworn statements of 10 detainees found inside the detention cell did not support CHR’s allegations; (c) the recantation made by detainee Cesar De Guzman, which now advanced the CHR’s claims cannot be given credence considering that medical certificates issued on different dates showed no sign of physical injuries; and (d) the video footage presented by the CHR showing the detention cell was not clear given that it only showed that it was a dark room with a male urinal. Moreover, the Ombudsman recognized the congested situation of jail facilities.⁴⁵

The Court agrees with the Ombudsman that the CHR failed to prove its Complaint with probable cause. Other than the alleged secret detention cell which the CHR has seen firsthand, its allegations constituting the crimes of grave threats, grave coercion, robbery/extortion, violations of Republic Act No. 9745, specifically Section 4(a)(1) to (4) and Section 4(b)(3) and (11) were based on *hearsay* considering that the CHR stated that the detainees relayed

⁴⁵ *Id.* at 63–65.

it to them. Worse, 10 out of the 12 detainees⁴⁶ executed sworn statements before the Public Attorney's Office which did not support the CHR's claims that the detainees were threatened, maltreated, or abused. On the contrary, the 10 detainees stated that their condition inside the station was fine.⁴⁷ In addition, the medical certificates of the detainees issued on separate dates showed no manifestation of physical abuse.⁴⁸

There is also no basis for the crimes of arbitrary detention and delay in the delivery of detained persons to the proper judicial authority considering that the detainees themselves stated that they were either arrested at or around 5:30 p.m. of the 26th or around 4:00 a.m. of the 27th of April 2017 for drug-related cases. The Indorsements to the Office of the City Prosecutor of Manila and the attachments, such as the Joint Affidavit of Arrest, Receipt/Inventory for Property Seized, Chain of Custody Form, Requests for Laboratory Screening, and Chemical Analysis were received by the said office on April 28, 2017.⁴⁹ While it was not clear at what time the Office of the City Prosecutor received the Indorsements, however, it is the burden of the CHR to support its allegations. In this regard, not only did the CHR fail to provide evidence to support the allegation of delay in the delivery of detained persons to the proper authority, it even failed to allege details showing the supposed delay. Moreover, it does not escape the Court that there is a presumption of regularity in the performance of official duties.⁵⁰ Hence, absent evidence from the CHR that respondents failed to perform their duty, it is presumed that respondents did their duty properly.

As to the alleged secret detention cell which PSUPT Domingo defended as a mere holding room, the CHR failed to provide the video footage before this Court. Even then, it is noted that at the time the CHR visited Raxabago PS 1, the number of detainees present exceeded its capacity, which the CHR did not deny. ***Hence, the Court cannot find bad faith on respondents when they put the 12 detainees in a small room, which appeared to have no artificial light, considering that there is no showing that there were other available spaces where the 12 detainees may be detained.***

Although the Court is not unmindful of the deplorable state of jail facilities in general and perennial jail congestion, as these were recognized in the *En Banc* case of *Almonte v. People*,⁵¹ it will be the height of injustice to blame the officers on the ground for the alleged unbearable detention facility, especially so that in this case, PSUPT Domingo's defense was that they were forced to be resourceful due to budget constraints.

⁴⁶ One detainee in the name of Robert Muro did not execute a sworn statement while the other detainee, Cesar De Guzman recanted his earlier affidavit, *id.* at 70-71.

⁴⁷ *Rollo*, pp. 316-333.

⁴⁸ *Id.* at 71.

⁴⁹ *Id.* at 268.

⁵⁰ *Yap v. Lagtapon*, 803 Phil. 652, 662 (2017) [Per J. Caguioa, First Division].

⁵¹ 878 Phil. 628 (2020) [Per C.J. Peralta, *En Banc*]. See the respective Opinions of former SAJ Perlas-Bernabe, now SAJ Leonen, J. Caguioa, J. Zalameda, J. M. Lopez, and J. Delos Santos.

The 1987 Constitution provides that the use of substandard or inadequate penal facilities under subhuman conditions shall be dealt with by law, to wit:

ARTICLE III
Bill of Rights

....

SECTION 19. (1) Excessive fines shall not be imposed, nor cruel, degrading or inhuman punishment inflicted. Neither shall death penalty be imposed, unless, for compelling reasons involving heinous crimes, the Congress hereafter provides for it. Any death penalty already imposed shall be reduced to *reclusion perpetua*.

(2) The employment of physical, psychological, or degrading punishment against any prisoner or detainee or the use of substandard or inadequate penal facilities under subhuman conditions shall be dealt with by law.

Relatedly, Republic Act No. 6975⁵² or the Department of the Interior and Local Government Act of 1990 provides that “[t]here shall be established and maintained in every district, city and municipality a secured, clean[,] adequately equipped and sanitary jail for the custody and safekeeping of city and municipal prisoners[.]”⁵³

Further, Republic Act No. 10575,⁵⁴ otherwise known as the Bureau of Corrections Act of 2013, states that “[i]t is the policy of the State to promote the general welfare and safeguard the basic rights of every prisoner incarcerated in our national penitentiary. It also recognizes the responsibility of the State to strengthen government capability aimed towards the institutionalization of highly efficient and competent correctional services.”⁵⁵ Moreover, it provides that the Bureau of Corrections is mandated with the safekeeping of inmates imprisoned in its facilities, which shall include “decent provisions of quarters, food, water and clothing in compliance with established United Nations standards.”⁵⁶ In addition, the Implementing Rules and Regulations of Republic Act No. 10575 states that the “safekeeping” of inmates “shall include decent and adequate provision of basic necessities, such as habitable quarters food, water, clothing, medical care, and proper observance of prescribed rights and privileges, such as visitation,

⁵² Entitled “An Act Establishing the Philippine National Police Under a Reorganized Department of the Interior and Local Government, and for Other Purposes,” approved on December 13, 1990. *See also* the Rules and Regulations Implementing the Department of the Interior and Local Government Act of 1990, approved on January 14, 1992.

⁵³ Republic Act No. 6975 (1990), sec. 63.

⁵⁴ Entitled “An Act Strengthening the Bureau of Corrections (BUCOR) and Providing Funds Therefor,” approved on May 24, 2013.

⁵⁵ Republic Act No. 10575 (2013), sec. 2.

⁵⁶ Republic Act No. 10575 (2013), sec. 4.

*communication, practice of one's religion and others, in compliance with established United Nations standards.”*⁵⁷

The United Nations (UN) standards referred to in Republic Act No. 10575 pertain to the UN Standard Minimum Rules for the Treatment of Prisoners (otherwise known as the Nelson Mandela Rules) adopted in 2015 by the UN General Assembly.

In her Separate Opinion in *Almonte*, then Senior Associate Justice Estela Perlas-Bernabe explained the Nelson Mandela Rules:

These United Nations standards pertain to the Nelson Mandela Rules issued by the UN General Assembly:

The Standard Minimum Rules for the Treatment of Prisoners, originally adopted by the First UN Congress on the Prevention of Crime and the Treatment of Offenders in 1955, constitute the **universally acknowledged minimum standards for the management of prison facilities and the treatment of prisoners**, and have been of tremendous value and influence in the development of prison laws, policies and practices in Member States all over the world. (Emphasis in the original)

The Nelson Mandela Rules pertinently provide:

1. PRISONER'S INHERENT DIGNITY AND VALUE AS HUMAN BEINGS

- Treat all prisoners with the respect due to their inherent dignity and value as human beings.
- Prohibit and protect prisoners from torture and other forms of ill-treatment.
- Ensure the safety and security of prisoners, staff, service providers and visitors at all times.

2. VULNERABLE GROUPS OF PRISONERS

- Take account of the individual needs of prisoners, in particular the most vulnerable categories.
- Protect and promote the rights of prisoners with special needs.
- Ensure that prisoners with physical, mental or other disabilities have full and effective access to prison life on an equitable basis, and are treated in line with their health conditions.

3. MEDICAL AND HEALTH SERVICES

- Ensuring the same standards of health care that are available in the community and providing access to necessary health-care services to prisoners free of charge without discrimination.

⁵⁷ Implementing Rules and Regulations of Republic Act No. 10575 (2014), sec. 4(a).

- Evaluating, promoting, protecting and improving the physical and mental health of prisoners, including prisoners with special healthcare needs.⁵⁸

Notwithstanding the clear import of the duty and obligation of the State to provide for a *clean, adequately equipped, and sanitary jail* for the safekeeping of inmates, this enforcement remains to be seen. ***With this, the Court calls the policymakers, implementers, and stakeholders to urgently improve jail facilities.***

It does not escape the Court that the improvement of penal facilities may be restricted by a budget which only the Congress can provide and which the Court cannot compel to allocate. This budgetary constraint, however, does not mean that the inmates or detainees in prison or jail are not entitled to their right to live a decent life while in penal facilities. The Court can still grant some form of relief to the detainees or prisoners therein, as the ultimate guardian of the Constitution.⁵⁹ Then SAJ Perlas-Bernabe advanced this view in her Separate Opinion in *Almonte*:

To be sure, the lack of laws allocating budget for the structural improvement of our jails in order to address subhuman conditions does not mean that our courts are powerless to grant permissible reliefs which are grounded on the Bill of Rights of our Constitution. In this relation, it must be emphasized that when the court grants such reliefs, it does not venture in policy making or meddle in matters of implementation; *after all, it cannot compel — as petitioners do not even pray to compel — Congress to make laws or pass a budget for whatever purpose.* **Policy making towards improving our jail conditions is a separate and distinct function from adjudicating Bill of Rights concerns upon a valid claim of serious and critical life threats while incarcerated.** The former is within the province of Congress, the latter is within the Court's.⁶⁰ (Emphasis in the original)

This was echoed by now Senior Associate Justice Marvic M.V.F. Leonen in his Separate Opinion in *Almonte*, to wit:

Second, persons deprived of liberty should be able to file an action for violations of their constitutional right against cruel, inhuman, and degrading punishment, and their rights to life, health, and security. As proposed by Senior Associate Justice Estela Perlas-Bernabe (Justice Perlas-Bernabe), we should not diminish the possibility that they may avail of these rights. This Court is not powerless to ensure that these fundamental rights are respected and implemented. It is why this Court exists. This aspect of judicial review, to measure the constitutionality of a government act or inaction vis-à-vis a legal right, is even more established than the expanded

⁵⁸ *Almonte v. People*, 878 Phil. 628, 929–930 (2020) [C.J. Peralta, *En Banc*].

⁵⁹ *Dueñas, Jr. v. House of Representatives Electoral Tribunal*, 610 Phil. 730, 742 (2009) [Per J. Corona, *En Banc*].

⁶⁰ *Almonte v. People*, 878 Phil. 628, 929–930 (2020) [C.J. Peralta, *En Banc*].

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jurisdiction now contained in Article VIII, Section 1 of the 1987 Constitution.⁶¹

Hence, should the government agencies mandated with the safekeeping of inmates/detainees continue to fail in improving jails or detention facilities in compliance with the standards set by law, then the Court, when properly invoked, will not hesitate to act in upholding the existing rights of the detainees and inmates.

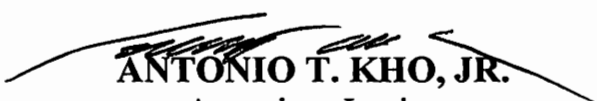
Given the foregoing, the Court notes that this case involves a custodial facility⁶² within the PNP's premises. Custodial facilities are for the holding of arrested persons under custodial investigation;⁶³ hence, it is a facility for people deprived of liberty for a limited period. Despite its temporariness, the people detained therein are also entitled to basic human rights. Necessarily, the PNP's custodial facilities should be clean, adequately equipped, and sanitary, with decent provisions of quarters, food, water, and the like, consistent with the penal facilities envisioned in Republic Act No. 10575, Republic Act No. 6975, and the Nelson Mandela Rules. Thus, the Court calls the attention of the PNP to provide custodial facilities that are clean, adequately equipped, and sanitary. Persons deprived of liberty deserve no less.

To close, the Court quotes Nelson Mandela: "It is said that no one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones."⁶⁴

ACCORDINGLY, the Petition is **DENIED**. The Joint Resolution dated July 28, 2020 and the Joint Order dated May 18, 2021 of the Office of the Ombudsman in OMB-P-C-17-0193 are hereby **AFFIRMED**.

Let copies of this Decision be furnished to the Congress, the Office of the President, the Department of Interior and Local Government, the National Police Commission, and the Philippine National Police.

SO ORDERED.


ANTONIO T. KHO, JR.
Associate Justice

⁶¹ *Almonte v. People* 878 Phil. 628, 702–703 (2020) [C.J. Peralta, *En Banc*].

⁶² See PNP Memorandum Circular Number 2018-027 entitled "Guidelines and Procedure in the Management and Supervision of All PNP Custodial Facilities and Persons Under PNP Custody," dated June 28, 2018.

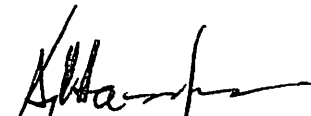
⁶³ PNP Memorandum Circular Number 2018-027 (2018), item 5(c).

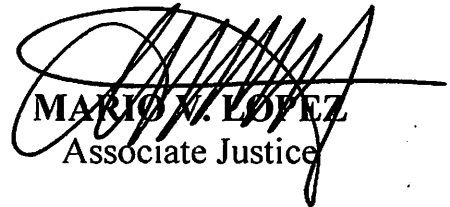
⁶⁴ Available at https://www.un.org/en/events/mandeladay/mandela_rules.shtml (last accessed on January 12, 2023).

WE CONCUR:

I dissent. see separate opinion


MARVIC M.V.F. LEONEN
Senior Associate Justice
Division Chairperson

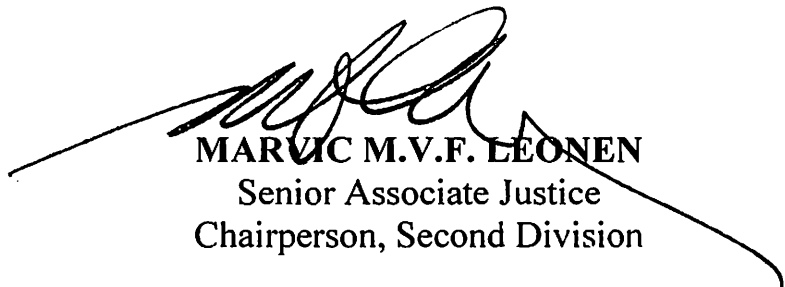

AMY C. LAZARO-JAVIER
Associate Justice


MARIO V. LOPEZ
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice