

**REPUBLIC OF THE PHILIPPINES
COMMISSION ON HUMAN RIGHTS
QUEZON CITY**

GREENPEACE SOUTHEAST ASIA
(PHILIPPINES), PHILIPPINE RURAL
RECONSTRUCTION MOVEMENT,
SENTRO NG MGA NAGKAKAISA AT
PROGRESIBONG MANGGAGAWA,
DAKILA, PHILIPPINE ALLIANCE OF
HUMAN RIGHTS ADVOCATES,
PHILIPPINE HUMAN RIGHTS
INFORMATION CENTER, MOTHER
EARTH FOUNDATION, ECOWASTE
COALITION, 350.ORG EAST ASIA,
NAGKAKAISANG UGNAYAN NG MGA
MAGSASAKA AT MANGGAGAWA SA
NIYUGAN, ASIAN PEOPLES'
MOVEMENT ON DEBT &
DEVELOPMENT, ALLIANCE OF YOUTH
ORGANIZATIONS AND STUDENTS-
BICOL, PHILIPPINE MOVEMENT FOR
CLIMATE JUSTICE, NUCLEAR FREE
BATAAN MOVEMENT, VON
HERNANDEZ, FR. EDWIN GARIGUEZ,
NADEREV "YEB" SAÑO, AMADO
GUERRERO SAÑO, CARLOS CELDRAN,
ANGEL AQUINO, JUAN MANUEL
"KOKOI" BALDO, LIDY NACPIL,
BENJAMIN ACERON, ELMA REYES,
LAIDY REMANDO, RICHARD LOPEZ,
CONSTANCIA LOPEZ, LERISSA LIBAO,
GLORIA CADIZ, TARCILA M. LERUM,
ROY N. BASTO, VERONICA V. CABE,

Petitioners,

-versus-

Case No. CHR-NI-2016-0001
Petition requesting for
investigation of the
responsibility of the Carbon
Majors for human rights
violations or threats of
violations resulting from the
impacts of climate change

CHEVRON (US), EXXON MOBIL (US), BP (UK), ROYAL DUTCH SHELL (NL), CONOCO PHILLIPS (US), PEABODY ENERGY (US), TOTAL (FR), CONSOL ENERGY (US), BHP BILLITON (AU), ANGLO AMERICAN (UK), RWE (DE), ENI (IT), RIO TINTO (UK), ARCH COAL (US), ANADARKO (US), OCCIDENTAL (US), LUKOIL (RU), ROSNEFT (RU), SASOL (ZA), REPSOL (ES), MARATHON (US), HESS (US), GLENCORE (CH), ALPHA NATURAL RESOURCES (US), FREEPORT MCMORAN (US), ENCANA (CA), DEVON ENERGY (US), BG GROUP (UK), WESTMORELAND MINING (US), SUNCOR (CA), KIEWIT MINING (US), NORTH AMERICAN COAL (US), RAG (DE), LUMINANT (US), LAFARGE (FR), HOLCIM (CH), CANADIAN NATURAL RESOURCES (CA), APACHE (US), MURRAY COAL (US), UK COAL (UK), HUSKY ENERGY (CA), HEIDELBERGCEMENT (DE), CEMEX (MX), ITALCEMENTI (IT), MURPHY OIL (US), TAIHEIYO (JP), OMV GROUP (AT),

Respondents.

X-----X

MOTION TO DISMISS *AD CAUTELAM*

ExxonMobil Petroleum & Chemical Holdings, Inc. Philippine Branch (“EMPCHI”), by way of special and limited appearance of the undersigned counsel to challenge the Honorable Commission’s jurisdiction and in the exercise of caution, and without submitting itself to this Honorable Commission’s jurisdiction,¹ respectfully moves to dismiss the *Petition*

¹ EMPCHI, by filing this motion, is not voluntarily or otherwise submitting itself to the jurisdiction of this Honorable Commission. The arguments and grounds raised in this motion are not to be, and should not be, misconstrued as EMPCHI’s voluntary or other submission to this Honorable Commission’s jurisdiction. In this connection, Rule 14, Section 20 of the Rules of Court (which should be applicable here by analogy or in a suppletory character pursuant to Rule 1, Section 4 of the Rules of Court) provides:

Section 20. *Voluntary appearance.* — The defendant's voluntary appearance in the action shall be equivalent to service of summons. **The inclusion in a motion to dismiss of other grounds aside from lack of**

Requesting for Investigation of the Responsibility of the Carbon Majors for Human Rights Violations or Threats of Violations Resulting from the Impacts of Climate Change dated May 9, 2016 (the “**Petition**”) filed by Greenpeace Southeast Asia (Philippines), et al. (“**Petitioners**”) against Chevron (US), et al. (“**Respondents**”) based on the following grounds:

GROUNDS

I.

WITH ALL DUE RESPECT, THIS HONORABLE COMMISSION DID NOT ACQUIRE JURISDICTION OVER THE PERSON OF EMPCHI DUE TO THE IMPROPER SERVICE OF THE CHR ORDER.

II.

THE PETITION FAILS TO STATE A CAUSE OF ACTION AGAINST EMPCHI.

III.

WITH ALL DUE RESPECT, THIS HONORABLE COMMISSION LACKS SUBJECT MATTER JURISDICTION OVER THE PETITION, AS THE PETITION DOES NOT SEEK MONITORING OF COMPLIANCE BY THE PHILIPPINE GOVERNMENT WITH APPLICABLE TREATIES AND DOES NOT INVOLVE ANY HUMAN RIGHTS VIOLATIONS INVOLVING CIVIL OR POLITICAL RIGHTS.

DISCUSSION

- I. With all due respect, this Honorable Commission did not acquire jurisdiction over the person of EMPCHI due to the improper service of the CHR Order.**

jurisdiction over the person of the defendant shall not be deemed a voluntary appearance. (*emphasis supplied*)

1. The Honorable Commission's *Order* dated July 21, 2016 (the "**CHR Order**") was **improperly served** on EMPCHI. It was (a) served by courier, which is **not a mode of service** allowed or recognized under the Omnibus Rules of Procedure of the Commission on Human Rights (the "**CHR Rules**"), and was (b) **not served on EMPCHI's resident agent** as required by law.

2. First, under Rule 4, Section 12 of the CHR Rules, the "service of invitations, orders, *subpoena*, or summons to the parties, shall be done by **personal service or by registered mail.**"²

3. In *Palileo v. Planters Development Bank*,³ the Philippine Supreme Court ruled that utilizing a courier to serve the Omnibus Motion for Reconsideration and for New Trial by Planters Development Bank was an improper mode of service. The Court said:

"Indeed, its filing or service of a copy thereof to petitioners by courier service cannot be trivialized. **Service and filing of pleadings by courier service is a mode not provided in the [Rules of Court].**" (*emphasis and italicization supplied*)

4. In consideration of the proper service methods specified in Rule 4, Section 12 of the CHR Rules and applying the ruling in *Palileo*⁴ suppletorily, it is evident that courier service is not an authorized mode of service in CHR proceedings. As such, the **defective service** of the CHR Order did **not** and could **not** vest this Honorable Commission with jurisdiction over the person of EMPCHI.

5. Second, under Section 128 of the Corporation Code of the Philippines, service of process on a foreign corporation with a branch office in the Philippines must be made on its resident agent "on whom any summons and other legal processes may be served in all actions or other legal proceedings against such corporation." EMPCHI has no current operations in the Philippines and has no employees, officers or directors in the Philippines.

6. Here, it is undisputed that the CHR Order was **not** served on EMPCHI's resident agent as required by law. The CHR Order was not addressed or sent to EMPCHI's resident agent.

² Emphasis supplied.

³ G.R. No. 193650, October 8, 2014.

⁴ See, Article 8 of the Civil Code on judicial precedents in relation to Rule 7, Section 22 of the CHR Rules on the suppletory application of the Rules of Court.

II. The Petition fails to state a cause of action against EMPCHI.

7. The Petition should be dismissed against EMPCHI for its failure to state a cause of action against EMPCHI because the CHR Order does not name EMPCHI as a respondent and the Petition fails to allege any act or omission of EMPCHI that supposedly violated Petitioners' legal rights.

9. **The caption of the Petition, which resulted in the issuance of the CHR Order, does not name EMPCHI as a respondent.** Rule 4, Section 12 of the CHR Rules states that a **"party shall be identified as a respondent when the person is named/identified as such in the complaint or in the course of investigation."**⁵

10. The Petition describes Respondents, collectively in Petitioners' misleading term 'Carbon Majors,' as supposedly the "largest multinational and state-owned *producers* of crude oil, natural gas, coal and cement."⁶ Petitioners then specifically define that "the term 'Carbon Majors' will refer *solely* to the existing investor-owned Carbon Majors producers listed in Tables 1 and 2."⁷ **Tables 1 and 2 do not list EMPCHI.**

11. The Petition states that the "investor-owned Carbon Major Respondents' company names, principal business addresses, and addresses of branch (*sic*) and/or regional offices, if any, in the Philippines, are listed in the Updated Annex 'C.'"⁸ Annex C incorrectly lists EMPCHI as a branch of "Exxon Mobil" with headquarters at "5959 Las Colinas Boulevard, Irving Texas 75039-2298 USA."⁹ **Importantly, EMPCHI is not a branch of "Exxon Mobil" and is not authorized to receive the CHR Order on behalf of any of the Respondents.** In addition, Petitioners indicate that Annex C is intended to be merely a list of addresses; Annex C itself cannot expand the actual list of Respondents in Tables 1 and 2.

12. If the intention of the Petition is to implead EMPCHI as a respondent, the Petition is *defective* for its failure to identify EMPCHI as a respondent.

13. Further, the Petition does *not* allege any act or omission of EMPCHI that supposedly violated Petitioners' legal rights.

⁵ Emphasis supplied.

⁶ Petition, at p. 5.

⁷ *Id.*, at p. 29.

⁸ *Id.*, at p. 26.

⁹ Annex C to the Petition.

14. The Petition does not even mention EMPCHI. EMPCHI is only mentioned erroneously as a branch of "Exxon Mobil" in Annex C to the Petition (which, as described above, cannot itself serve to expand the list of Respondents).

III. With all due respect, this Honorable Commission lacks subject matter jurisdiction over the Petition as the Petition does not seek monitoring of compliance by the Philippine Government with applicable treaties and does not involve any human rights violations involving civil or political rights.

16. At the outset, the Petition requests this Honorable Commission to act beyond the scope of its authority under the 1987 Constitution of the Republic of the Philippines (the "**Philippine Constitution**") in several ways. For the following reasons, this Honorable Commission respectfully lacks subject matter jurisdiction over the Petition.

17. First, this Honorable Commission's power to monitor compliance by the Philippine Government with international treaties is circumscribed by Article XIII, Section 18(7) of the Philippine Constitution, which provides:

"Section 18. The Commission on Human Rights shall have the following powers and functions:

...
(7) Monitor the **Philippine Government's** compliance with **international treaty obligations** on human rights;" (*emphasis supplied*)

18. While the Petition invokes Rule 2 Section 2 of the CHR Rules, which refers to the CHR's power to monitor "the Philippine Government's compliance with international human rights treaties and instruments" as a basis for this Honorable Commission's jurisdiction,¹⁰ the Petition only names private parties. The Petition does not name the Philippine Government as the entity to be investigated. Thus, the Petition is outside the jurisdiction of this Honorable Commission on this basis alone.

19. Further, while the Petitioners identify certain international treaties that the Philippines has signed and/or has ratified in Annex A to the Petition, none of said international treaties identifies climate change impacts as a human right as a matter of international law, and the Petition does not contend otherwise.¹¹ Thus, for this separate reason the Petition is again outside this Honorable Commission's jurisdiction.

20. Second, the Petition is outside the scope of this Honorable Commission's jurisdiction under the Philippine Constitution, as the Petition does not allege "human rights violations involving civil or political rights."

21. Article XIII, Section 18(1) of the Philippine Constitution, provides:

"Section 18. The Commission on Human Rights shall have the following powers and functions:

- (1) Investigate, on its own or on complaint by any party, all forms of human rights violations **involving civil and political rights;**" (*emphasis supplied*)

22. The rationale behind the constitutional limitation on the scope of this Honorable Commission's investigatory power can be gleaned from the Philippine Supreme Court disquisition in *Simon, Jr. v. Commission on Human Rights, et al.* (the "**Simon Case**").¹²

23. As noted in the Simon Case, while "the Universal Declaration of Human Rights, as well as, more specifically, the International Covenant on Economic, Social and Cultural Rights and International Covenant on Civil and Political Rights, suggests that the scope of human rights can be understood to include those that relate to an individual's social, economic, cultural, political and civil relations," the framers of the Philippine Constitution specifically adopted a *narrower and more limited* concept of human rights in adopting the specific provisions on human rights and in creating this Honorable Commission.¹³

¹¹ See Annex A to the Petition. Rather than relying on these treaties, the Petition merely states: "The propriety of this Petition is supported by the recognition of the human rights implications of climate change by the UN Human Rights Council, Special Procedures of the UN Human Rights Council, the nations participating in the Climate Vulnerable Forum, and the Government of the Philippines" Petition, at p. 14.

¹² G.R. No. 100150, January 5, 1994.

¹³ See deliberations of the 1986 Constitutional Commission (as quoted in the Simon Case), a copy of which is attached as **Annex 1**.

24. The limited scope of this Honorable Commission's investigatory jurisdiction is further shown by the human rights cases referred by the Philippine Supreme Court to this Honorable Commission for investigation, being those involving enforced disappearances, police/military abduction, torture or maltreatment, and warrantless searches and arrests.¹⁴

25. While the Constitutional Commission did not preclude the possibility that **Congress in the future** may enact **new laws** that would expand the scope of human rights cases falling under the authority of this Honorable Commission, **no statute has been passed expanding this Honorable Commission's authority to cover other cases of alleged violations of human rights**. Absent such duly enacted laws in the future, with due respect, this Honorable Commission lacks the authority to expand its jurisdiction beyond what Congress and the Philippine Constitution have prescribed.

26. With due respect, the CHR Rules, which state that this Honorable Commission shall also investigate "all economic, social and cultural rights violations and abuses," must be interpreted within the boundaries of this Honorable Commission's constitutional authority and such rules cannot unduly expand this Honorable Commission's jurisdiction because only Congress may do so, as provided in the Philippine Constitution.¹⁵ This Honorable Commission's rule-making authority is limited only to the promulgation of operational guidelines and rules of procedure¹⁶ within the bounds of its constitutional authority and clearly does **not** extend to the enlargement of its jurisdiction, which is a matter of substantive law.

27. Put simply, under the current state of the law, the scope of this Honorable Commission's investigative power is limited to alleged "*human rights violations involving civil and political rights*."

28. The alleged "human rights violations or threats of violations" that the Petition claims to be the subject thereof do **not** involve the type of civil and political rights as intended by and enumerated in the Philippine Constitution (and are not even in the Bill of Rights). In fact, the Philippine

¹⁴ See *Burgos v. Esperon, et al.*, G.R. No. 178497, February 4, 2014; *Roxas v. Macapagal-Arroyo, et al.*, G.R. No. 189155, September 7, 2010; *People v. Domasian, et al.*, G.R. No. 95322, March 1, 1993; *People v. Manliguez, et al.*, G.R. No. 91745, March 4, 1992; *People v. Alegria*, G.R. No. 80764, September 28, 1990; *Dizon, et al. v. Eduardo, et al.* G.R. No. 59118, March 3, 1988.

¹⁵ Article XIII, Section 19 of the Philippine Constitution provides:

"Section 19. **The Congress** may provide for other cases of violations of human rights that should fall within the authority of the Commission [on Human Rights], taking into account its recommendation." (*emphasis supplied*)

¹⁶ Philippine Constitution, Article XIII, Section 18(2).

Supreme Court in *Oposa, et al. v. Factoran, et al.*¹⁷ said that the right to a balanced and healthful ecology belongs to a different category of rights from the civil and political rights enumerated in the Bill of Rights. Thus, the Petitioners' allegations are outside the investigatorial jurisdiction of this Honorable Commission.

29. Further, the Petition also seeks remedies that are outside the scope of this Honorable Commission's authority. What the Petition really asks this Honorable Commission to do goes *far beyond* the Honorable Commission's limited authority to investigate or make findings of fact, and asks this Honorable Commission to determine whether or not the Respondents "*must account for*" the *alleged* "human rights implications of climate change." The requested relief thus inappropriately seeks for this Honorable Commission to adjudicate the parties' legal rights, which is clearly outside the scope of this Honorable Commission's investigative function.

30. For example, without any basis and contrary to this Honorable Commission's specific function as an investigative body tasked to receive evidence and ascertain facts, the Petition asks this Honorable Commission to take "official or administrative notice" of certain Respondents' supposed "contribution to carbon dioxide emissions and the UN Guiding Principles on Business and Human Rights,¹⁸" the supposed "basis of the Petition concerning the human rights implications of climate change and ocean acidification and the estimated responsibility of the Carbon Majors," and supposed "recent developments in international climate law and foreign legal actions, cases, and investigations concerning climate change."¹⁹ This Honorable Commission should decline to do so.

31. As ruled by the Philippine Supreme Court *en banc* in *Cariño, et al. v. Commission on Human Rights, et al.*,²⁰ the power of this Honorable Commission is strictly **investigatory** or **fact-finding** in nature, thus:

"The most that may be conceded to the Commission in the way of adjudicative power is that it may *investigate, i.e., receive evidence and make findings of fact as regards claimed human rights violations involving civil and political rights*. But fact finding is not adjudication, and cannot be likened to the *judicial*

¹⁷ G.R. No. 101083, July 30, 1993.

¹⁸ Not only are these requested determinations beyond this Honorable Commission's fact-finding jurisdiction, they are inconsistent with the cited UN Guiding Principles which also expressly disclaim that it is setting any new international law obligations. See UN Guiding Principles at 1, "General Principles" ("Nothing in these Guiding Principles should be read as creating new international law obligations, or as limiting or undermining any legal obligations a State may have undertaken or be subject to under international law with regard to human rights."). See also paragraph 19.

¹⁹ Petition, at pp. 26, 52 and 67.

²⁰ G.R. No. 96681, December 2, 1991.

function of a court of justice, or even a quasi-judicial agency or official. The function of receiving evidence and ascertaining therefrom the facts of a controversy is not a judicial function, properly speaking. To be considered such, the faculty of receiving evidence and making factual conclusions in a controversy must be accompanied by the authority of *applying the law to those factual conclusions to the end that the controversy may be decided or determined authoritatively, finally and definitively, subject to such appeals or modes of review as may be provided by law.*" (emphasis supplied)

32. The act of taking "official or administrative notice" does *not* have any basis in law or in the CHR Rules and is antithetical to the investigative function of this Honorable Commission, which is essentially to *receive evidence and ascertain facts.*

PRAYER

WHEREFORE, it is respectfully prayed that this Honorable Commission DISMISS the *Petition Requesting for Investigation of the Responsibility of the Carbon Majors for Human Rights Violations or Threats of Violations Resulting from the Impacts of Climate Change* dated May 9, 2016 with prejudice.

Other just and equitable reliefs are prayed for.

Makati City for Quezon City, September 13, 2016.

SYCIP SALAZAR HERNANDEZ & GATMAITAN

*Counsel for EMPCHI by way only of
special and limited appearance*

3rd Floor, SyCipLaw Center

105 Paseo de Roxas, Makati City

Tel. No. : (632) 982-3500 ; Fax No. : (632) 817-3896

E-mail : sshg@syciplaw.com

By:



LUISITO V. LIBAN

PTR No. 5329534 MD; 01/06/16; Makati City
IBP Lifetime No. 014232; 01/06/16; Makati City
Roll No. 32440
MCLE Compliance No. V- 0020075; 04/25/16


RUSSEL L. RODRIGUEZ

PTR No. 5329571MD; 01/06/16; Makati
IBP Lifetime Membership No. 14251
Roll No. 47471
MCLE Compliance No. V-0015822; 03/15/16



MARIA VIOLA B. VISTA-VILLAROMAN
PTR No. 5329586 MD; 01/06/16; Makati City
IBP No. 1020691; 01/06/16; Makati City
Roll No. 58565
MCLE Compliance No. V-0015834; 03/15/16

NOTICE OF HEARING AND COPY FURNISHED:

COMMISSION SECRETARY
SAAC Building, Commonwealth Avenue
UP Complex, Diliman, Quezon City

**ATTYS. ZELDANIA DT SORIANO
AND GRIZELDA MAYO-ANDA**
Legal Representatives of Petitioners
Greenpeace Southeast Asia
No. 30 JGS Bldg., Sct. Tuason,
Brgy. Laging Handa, Quezon City

The undersigned will submit the foregoing motion for the immediate consideration of the Honorable Commission.



MARIA VIOLA B. VISTA-VILLAROMAN

EXPLANATION

Due to time constraints and the distances involved, this *Motion to Dismiss Ad Cautelam* will be served by registered mail.



MARIA VIOLA B. VISTA-VILLAROMAN

**Deliberations of the 1986 Constitutional Commission
As Quoted in the Simon Case**

“MR. GARCIA. . . ., the primacy of its (CHR) task must be made clear in view of the importance of human rights and also because civil and political rights have been determined by many international covenants and human rights legislations in the Philippines, as well as the Constitution, specifically the Bill of Rights and subsequent legislation. Otherwise, if we cover such a wide territory in area, we might diffuse its impact and the precise nature of its task, hence, its effectivity would also be curtailed.

So, it is important to delineate the parameters of its tasks so that the commission can be most effective.

MR. BENGZON. That is precisely my difficulty because civil and political rights are very broad. The Article on the Bill of Rights covers civil and political rights. Every single right of an individual involves his civil right or his political right. So, where do we draw the line?

MR. GARCIA. Actually, these civil and political rights have been made clear in the language of human rights advocates, as well as in the Universal Declaration of Human Rights which addresses a number of articles on the right to life, the right against torture, the right to fair and public hearing, and so on. These are very specific rights that are considered enshrined in many international documents and legal instruments as constituting civil and political rights, and these are precisely what we want to defend here.

MR. BENGZON. So, would the commissioner say civil and political rights as defined in the Universal Declaration of Human Rights?

MR. GARCIA. Yes, and as I have mentioned, the International Covenant of Civil and Political Rights distinguished this against torture.

MR. BENGZON. So as to distinguish this from the other rights that we have?

MR. GARCIA. Yes, because the other rights will encompass social and economic rights, and there are other violations of rights of citizens which can be addressed to the proper courts and authorities.

MR. BENGZON. So, we will authorize the commission to define its functions, and, therefore, in doing that the commission will be authorized to take under its wings cases which perhaps heretofore or at this moment are under the jurisdiction of the ordinary investigative and prosecutorial agencies of the government. Am I correct?

MR. GARCIA. No. We have already mentioned earlier that we would like to define the specific parameters which cover civil and political rights as covered by the international standards governing the behavior of governments regarding the particular political and civil rights of citizens, especially of political detainees or prisoners. This particular aspect we have experienced during martial law which we would now like to safeguard.

MR. BENGZON. Then, I go back to that question that I had. Therefore, what we are really trying to say is, perhaps, at the proper time we could specify all those rights stated in the Universal Declaration of Human Rights and defined as human rights. Those are the rights that we envision here?

MR. GARCIA. Yes. In fact, they are also enshrined in the Bill of Rights of our Constitution. They are integral parts of that.

MR. BENGZON. Therefore, is the Gentleman saying that all rights under the Bill of Rights covered by human rights?

MR. GARCIA. No, only those that pertain to civil and political rights.

XXX

XXX

XXX

MR. RAMA. *In connection with the discussion on the scope of human rights, I would like to state that in the past regime, everytime we invoke the violation of human rights, the Marcos regime came out with the defense that, as a matter of fact, they had defended the rights of people to decent living, food, decent housing and a life consistent with human dignity.*

So, I think we should really limit the definition of human rights to political rights. Is that the sense of the committee, so as not to confuse the issue?

MR. SARMIENTO. *Yes, Madam President.*

MR. GARCIA. I would like to continue and respond also to repeated points raised by the previous speaker.

There are actually six areas where this Commission on Human Rights could act effectively: 1) protection of rights of political detainees; 2) treatment of prisoners and the prevention of tortures; 3) fair and public trials; 4) cases of disappearances; 5) salvagings and hamletting; and 6) other crimes committed against the religious.

XXX

XXX

XXX

The PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. Thank You Madam President.

I would like to start by saying that I agree with Commissioner Garcia that we should, in order to make the proposed Commission more effective, delimit as much as possible, without prejudice to future expansion. The coverage of the concept and jurisdictional area of the term 'human rights'. I was actually disturbed this morning when the reference was made without qualification to the rights embodied in the universal Declaration of Human Rights, although later on, this was qualified to refer to civil and political rights contained therein.

...

MR. GARCIA. Madam President, I have to repeat the various specific civil and political rights that we felt must be envisioned initially by this provision — freedom from political detention and arrest prevention of torture, right to fair and public trials, as well as crimes involving disappearance, salvagings, hamlettings and collective violations. So, it is limited to politically related crimes precisely to protect the civil and political rights of a specific group of individuals, and therefore, we are not opening it up to all of the definite areas.

MR. GUINGONA. Correct. Therefore, just for the record, the Gentlemen is no longer linking his concept or the concept of the Committee on Human Rights with the so-called civil or political rights as contained in the Universal Declaration of Human Rights.

MR. GARCIA. When I mentioned earlier the Universal Declaration of Human Rights, I was referring to an international instrument.

MR. GUINGONA. I know.

MR. GARCIA. But it does not mean that we will refer to each and every specific article therein, but only to those that pertain to the civil and politically related, as we understand it in this Commission on Human Rights.

MR. GUINGONA. Madam President, I am not clear as to the distinction between social and civil rights.

MR. GARCIA. There are two international covenants: the International Covenant and Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The second covenant contains all the different rights — the rights of labor to organize, the right to education, housing, shelter, et cetera.

MR. GUINGONA. So we are just limiting at the moment the sense of the committee to those that the Gentlemen has specified.

MR. GARCIA. Yes, to civil and political rights.

MR. GUINGONA. Thank you.

xxx

xxx

xxx

SR. TAN. Madam President, from the standpoint of the victims of human rights, I cannot stress more on how much we need a Commission on Human Rights. . . .

. . . human rights victims are usually penniless. They cannot pay and very few lawyers will accept clients who do not pay. And so, they are the ones more abused and oppressed. Another reason is, the cases involved are very delicate — torture, salvaging, picking up without any warrant of arrest, massacre — and the persons who are allegedly guilty are people in power like politicians, men in the military and big shots. Therefore, this Human Rights Commission must be independent.

I would like very much to emphasize how much we need this commission, especially for the little Filipino, the little individual who needs this kind of help and cannot get it. And I think we should concentrate only on civil and political violations because if we open this to land, housing and health, we will have no place to go again and we will not receive any response. . . ."
(underscoring supplied)