

REPUBLIC OF THE PHILIPPINES
COURT OF APPEALS
MANILA

**IN THE MATTER OF THE PETITION
FOR THE WRIT OF AMPARO AND
HABEAS DATA IN FAVOR OF MELISSA
C. ROXAS,**

MELISSA C. ROXAS,
Petitioner,

- versus -

CA-G.R. SP NO. 00036-WRA

**GLORIA MACAPAGAL ARROYO, ET
AL.,**
Respondents.

X-----X

NOTICE OF DECISION

SIR:

Please take notice that on **August 26, 2009**, a **DECISION**, copy attached, was rendered by the **FORMER SPECIAL SIXTEENTH** Division of the Court of Appeals in the above entitled case, the original of which is now on file with this Court.

You are hereby required to inform this Court, within five (5) days from receipt hereof, the date when you received this notice together with copy of the **decision**.

August 26, 2009.

Very truly yours,


DONNA LARA/B. OROPESA
Division Clerk of Court

Copy furnished:

OFFICE OF THE SOLICITOR GENERAL - per.
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HER EXCELLENCY GLORIA MACAPAGAL ARROYO - per.
Office of the President
Malacañang, Manila

SEC. GILBERT TEODORO - per.
Department of Defense
GEN. VICTOR S. IBRADO - per.
Commanding General, AFP
Camp Aguinaldo, EDSA, Quezon City

P/Dir. Gen. Jesus Ame Verzosa - per.
Director General, PNP, Camp Crame, EDSA, Quezon City

/lce

LT. GEN. DELFIN N. BANGIT - per.
Commanding General, Philippine Army
Fort Bonifacio, Taguig City

PC/Supt. LEON NILO A. DELA CRUZ - sp. delivery & LBC
Regional Director, PNP Region Office III
Camp Olivas, San Fernando, Pampanga

MAJ. GEN. RALPH VILLANUEVA - sp. delivery & LBC
Commanding General, PA 7th Infantry Division
Fort Magsaysay, Laur, Nueva Ecija

PS/SUPT. RUDY GAMIDO LACADIN - sp. delivery & LBC
Police Director, Province of Tarlac
Camp Macabulos, Tarlac City, Tarlac

DEX, RC AND ROSE - reg. w/card
c/o AFP, Camp Aguinaldo, EDSA, Quezon City

Republic of the Philippines
COURT OF APPEALS
Manila

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**FORMER
SPECIAL SIXTEENTH DIVISION**

IN THE MATTER OF THE
PETITION FOR THE WRIT
OF AMPARO AND HABEAS
DATA IN FAVOR OF
MELISSA C. ROXAS,

CA-G.R. SP. No. 00036-WRA

MELISSA C. ROXAS,
Petitioner,

Members:

TIJAM, Chairman
TAYAG, A.G., and
PIZARRO, N.B., JJ.

-versus-

GLORIA MACAPAGAL
ARROYO, GILBERT
TEODORO, GEN. VICTOR
S. IBRADO, P/DIR. GEN.
JESUS AME VERZOSA,
LT. GEN. DELFIN N. BANGIT,
PCSUPT. RUDY GAMIDO
LACADIN, AND CERTAIN
PERSONS WHO GO BY THE
NAMES DEX, RC and ROSE,
Respondents.

Promulgated:

AUG 26 2009

X-----X

DECISION

TIJAM, J.:

The Philippines is a peace-loving country that has evolved out of many turmoils committed to safeguard the freedom and aspirations of all free men and women. Our courts will not tolerate deviations from decent norms of conduct that will infringe upon this commitment.

Abduction, torture and illegal detention, in any form, are proscribed. They are not only illegal but also immoral. Courts are mandated to insure that these criminal acts are not inflicted upon individuals, whether they are law-abiding or are themselves lawless elements for even criminals are entitled to equal protection under the law. As the vanguard of human rights, courts are ordained to protect and shield these victims, whether they are foreigners or citizens of this country, because these crimes constitute an assault against humanity and an affront against an orderly and peaceful society.

The Philippines, a signatory to the United Nations Charter, adopts the *Universal Declaration of Human Rights*, which upholds the right to life, liberty and security of person¹ and adheres to the ideal that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.² This “charter of individual liberties” enshrined in the Bill of Rights (Article III) of the 1987 Philippine Constitution resonates these sacrosanct, inviolable policies.

¹ Article 3 of the Universal Declaration of Human Rights.

² Article 5 of the Universal Declaration of Human Rights .

Another testimonial of its recognition of these human rights is the Philippine Supreme Court's adoption of the Rule on the *Writ of Amparo* on October 24, 2007. The writ of amparo is a unique and extraordinary remedy which covers the right to life, liberty and security in case of extralegal killings, enforced disappearances or threats thereof. In the landmark case of *The Secretary of National Defense, The Chief of Staff, Armed Forces of the Philippines v. Raymond Manalo and Reynaldo Manalo*,³ the first ever case decided involving the remedy of the writ of amparo, the Philippine Supreme Court, sitting *en banc*, unanimously held that the "right to security" does not only prohibit the State from arbitrarily depriving liberty, but imposes a positive duty on the State to afford protection of the right to liberty.⁴ It is on this command of guaranteed protection that we have resolved this petition.

This is a *Petition for Writ of Amparo and Habeas Data with prayers for Protection Orders, an Order of Inspection of Place and Production of Documents*⁵ filed by Melissa C. Roxas against Respondents before the Honorable Supreme Court. In a Supreme Court Resolution,⁶ dated June 9, 2009, (SC Resolution) this case was referred to Us and was raffled to this *ponente* for hearing and resolution of the petition. Under said SC Resolution, Petitioner's prayers for a writ of amparo and habeas data were granted. Respondents were, thus, ordered to file a verified return on or before June 15, 2009.

Respondents, thru the Office of the Solicitor General, instead filed a *Motion for Extension of time to File Return of Writ*⁷ until June 18, 2009 which We *granted*⁸ after finding the same meritorious.

³ G.R. No. 180906, October 7, 2008.

⁴ Citing the European Court of Human Rights on its interpretation of the "right to security" as not only prohibiting the State from arbitrarily depriving liberty, but imposing a positive duty on the State to afford protection of the right to liberty.

⁵ *Rollo*, pp. 2-8, dated May 29, 2009.

⁶ *Id.*, at pp. 19-21.

⁷ *Id.*, at pp. 27-29.

⁸ *Id.*, at pp. 33-34, Resolution, dated June 17, 2009.

Pursuant to the SC Resolution, We conducted the initial hearing of the petition on June 18, 2009 where counsels for both parties appeared. A second hearing was held on June 29, 2009 for the reception of evidence. During the first 2 hearings, Petitioner failed to appear because she departed for the USA. This Court could have opted to archive the case due to the non-appearance of the Petitioner but chose to extenuate the benefits of due process to the Petitioner. A third and final hearing was held on July 30, 2009 where Petitioner finally appeared and testified.

Petitioner's allegations⁹

Petitioner is an American citizen of Filipino descent. While in the United States of America, Petitioner applied for, and was admitted, to an exposure program to the Philippines by the Bagong Alyansang Makabayan-USA (BAYAN-USA) where she is a member. In April 2009, she was endorsed to BAYAN – Tarlac where she undertook to conduct surveys for future medical missions. In pursuing this activity, Petitioner brought her digital camera with memory card, a laptop computer, an external hard disk, an IPOD, a journal, wristwatch, wallet with Php15,000.00, sphygmomanometer, a stethoscope and medicines.

At around 1:30 p.m. of May 19, 2009, while Petitioner and her companions, Juanito Carabeo (*Carabeo*) and John Edward Jandoc (*Jandoc*), were taking a rest from their survey and while at the house of one Jesus Paulo in Sitio Bagong Sikat, Barangay Kapanikian, La Paz, Tarlac, they heard a loud banging and a voice demanding that they open the front door. Suddenly, 15 men in civilian clothes and bonnets, with the exception of their leader whose face Petitioner could identify, and armed with high-

⁹ *Supra* at Note 5; Rollo. pp. 11-16. Affidavit of Petitioner, dated May 29, 2009. Exhs. "A" and series. pp. 194-196, Petitioner's Supplemental Affidavit, dated July 31, 2009; TSN, dated July 30, 2009.

powered rifles, forcibly opened the door, went inside the house and ordered all of them to lie on the ground face down.

Despite Petitioner's protestations, five of the armed men held her legs, tied her hands and taped her mouth. At that instance, she saw Carabeo and Jandoc already blindfolded and being herded to a nearby blue van. Petitioner started shouting her name while she was being dragged towards the van which bruised and wounded her arms, legs and knees. Once inside the vehicle and before she can be blindfolded, Petitioner was able to see the face of the man sitting beside her and that of the man in front of her.

After what seems to be more than an hour of travelling, the van stopped and Petitioner, Jandoc and Carabeo were ordered to alight therefrom. Petitioner was made to sit on bamboo slats for five minutes before she was brought inside a room with a metal door. A man told Petitioner that she was being held because she is a member of the CPP-NPA.

Later, still with blindfold and handcuffs, Petitioner was put inside a room which she believed to be a prison cell from the sound of metal. From there, she could hear construction activities, *i.e., blowtorching, hammering, gun firing, and planes taking off and landing.* She perceived said place to be Fort Magsaysay in Laur, Nueva Ecija.

After two days of staying in her "cell," Petitioner was interrogated and could only take off her blindfold during bath time. Unfortunately, the interrogations continued on the following days. To make matters worse, her interrogators started their physical abuse upon her by choking her a number of times, repeatedly boxing her on her jaw, chest and rib cage, and banging her head on the wall, while the others uttered: "*matigas 'to. Barilin na lang natin.*" Every time she would fall on the ground because of the beatings, other men would force her to stand to resume the

assault. Once, a plastic bag was placed on her head which suffocated her and caused her to lose her breath for a while. Yet, her tormentors kept on calling her "*Maita*" and that her "*Canadian government*" could not do anything to help her. All those time, Petitioner suffered in fear believing that death was inevitable.

The torture and interrogations continued for 6 days until she was returned to her uncle's house in Quezon City on May 25, 2009. But before Petitioner could be released, her abductors gave her a cellular phone with a SIM card and an e-mail address where they can contact her, a bag with biscuits and books,¹⁰ the handcuffs which they used on her, and a blouse and a pair of shoes. She was likewise advised not to report to the group "*Karapatan*" or something will happen to her and her family. These object evidence, except for the cellular phone and SIM Card, were shown to the court.

Out of fear, as one of her abductors continued to call and monitor her, Petitioner threw the SIM card given to her and immediately submitted herself for medical examination. Petitioner eventually returned to the USA to recuperate from her harrowing experience.

Believing that the illegal abduction and torture done against her were identical and were of the same patterns of abduction and kidnapping done by military forces or persons with authorities on others perceived to be enemies of the state, Petitioner filed this Petition against herein Respondents fearful that her and her family's lives, liberty and security are in imminent danger.

Petitioner prayed of this Court that Respondents 1) be enjoined from harming or even approaching Petitioner and her family and 2) be ordered to: *a*) allow inspection of detention areas in 7th Infantry Division, Fort Magsaysay, Laur, Nueva Ecija; *b*)

¹⁰ Love in Times of Cholera by Gabriel Garcia Marquez: Bible of the King James Version.

produce documents relating to any report on the case of Petitioner including, but not limited to, intelligence report and operation reports of the 7th infantry division, the Special Operations Group of the Armed Forces of the Philippines and its subsidiaries or branch/es prior to, during and subsequent to May 19, 2009; c) expunge from the records of the respondents any document pertinent or connected to Melissa C. Roxas, Melissa Roxas or any name which sounds the same; and, d) return to petitioner her camera with memory card, IPOD, laptop, journal, sphygmomanometer, stethoscope, medicine and Php15,000.00 which were taken from her.

Petitioner's evidence¹¹

1. Petitioner's Affidavit, dated May 29, 2009 and Supplemental Affidavit, dated July 31, 2009¹² to prove her abduction, detention and torture;
2. *Medical Certificate*,¹³ dated May 29, 2009, to prove that Petitioner sustained multiple abrasions on both knees and wrists, and suffered from acute stress disorder;
3. Medical Report, dated June 1, 2009;
4. *Photographs*¹⁴ of Petitioner's knees and wrists showing abrasions;
5. Psychological Evaluation of Petitioner to prove the psychological impact upon Petitioner because of the incident;
6. Curriculum Vitae of Ms. Ana C. Deutsch;

¹¹ *Id.*, at pp. 187-193, Offer of Exhibits, dated August 1, 2009.

¹² *Supra* at Note 5.

¹³ *Rollo*, p. 17, Medical Certificate, dated May 29, 2009, Exhs. "C" and series.

¹⁴ *Rollo*, at pp. 156-162.

7. Cartographic Sketches of two of Petitioner's abductors;
8. Sketches of the van, Jesus Paulo's house, women's barracks where Petitioner was detained and the other room where Petitioner was interrogated;
9. Affidavits of Cecilia Castro Ruiz and *Kristine Gonzales*¹⁵ to show petitioner's condition at the time of her release.
10. The Book entitled Love in the Times of Cholera by Gabriel Garcia Marquez and the Holy Bible, King James Version which were given to her by her abductors and to show that the same were bought from a Cabanatuan Bookstore;
11. Handcuffs bearing Lot No. 4760 and the word TAIWAN which were used on and given to her by her abductors;
12. White Slippers, sandals and olive green blouse given to her by Respondent "Rose";
13. Slip of paper with email address, riveradong@yahoo.com and password, dantes 2009;

Respondents' allegations and/or comment to the Petition

Respondents asserted that President Arroyo should not have been impleaded as party-respondent in view of her immunity from suit. Respondents claimed that the "abduction" was stage-managed to put the government in a "bad light" and, at the same time, to provide great media mileage to Petitioner and her group.

¹⁵ *Id.*, at p. 163.

Respondents argued that even assuming without admitting that Petitioner was really abducted, there is no evidence that they had authored, condoned or authorized the alleged abduction. Petitioner failed to present any proof or allegation that any of the named Respondents has authorized the supposed abduction of petitioner.¹⁶ There were no statements or corroborations that Petitioner had seen any of the Respondents at the time she was abducted and/or tortured. Petitioner, therefore, has no cause of action against any of the Respondents.

Respondents highlighted the fact that even with this false accusations, upon having been informed of the alleged "*abduction*," the Philippine National Police started investigating the incident.

For his part, Respondent Secretary Teodoro manifested that as soon as he received the SC Resolution requiring him to file a Return on the petition, which was the first time that he officially came to know of the alleged abduction, he immediately instructed the AFP chief of Staff to conduct an inquiry to determine the validity of the accusation against the military personnel.

Likewise, inasmuch as the matter was formally brought to his attention only upon his receipt of the SC resolution, AFP Chief of Staff, Gen. Victor S. Ibrado, set in motion the investigation on the alleged abduction. He directed his immediate subordinate, Lt. Gen. Bangit, Commanding General of the Philippine Army, to brief him on the matter.

Lt. Gen. Bangit, in turn, pursued an inquiry on the allegations on the petition. He pointed out that he had never permitted or sanctioned extra-legal military operations.

¹⁶ *Id.*, at pp. 35-67, Return of the Writs and Comment on the Petition, dated June 17, 2009.

Having been informed of the alleged abduction by way of the SC Resolution, Maj. Gen. Villanueva, AFP Commander, 7th Infantry Division, immediately conferred with his Staff Judge Advocate and the OSG with respect to the filing of the Return. Likewise, he directed his staff to investigate and submit their report on the abduction. Maj. Gen. Villanueva vehemently denied that any Philippine Army personnel under his command had participated or had knowledge of the abduction.

On the other hand, Dir. Gen. Verzosa, of the PNP, learned of the alleged abduction by way of the reports submitted to him by his subordinates. He maintained that the reported abduction had been fully investigated and vigorously pursued beginning with the local police station, then with the provincial office by Police Senior Superintendent Rudy Lacatin, Director, Province of Tarlac, followed by the regional office, by Police Chief Superintendent Leon Nilo A. Dela Cruz, PNP Regional Director, Region III, until it was reported to his office. Verzosa reiterated that the PNP remains true to its mandate to enforce the law, to observe respect for human rights and constitutional rights.

As part of the investigation, the PNP had, in fact, invited Petitioner, thru the Commission on Human Rights, to appear before it. Unfortunately, Petitioner and her counsel had not been cooperative.

Respondents thru the OSG manifested that one of Petitioner's companions, Carabeo, has 7 outstanding warrants of arrest.

Respondents' evidence¹⁷

1. Respondents' individual *Affidavits*¹⁸ and *Counter-Affidavit*¹⁹ disclaiming any prior knowledge or participation in the alleged abduction, detention and torture of the petitioner;
2. *Memorandum*,²⁰ dated October 31, 2007, of Respondent Teodoro containing Policy Directives on Actions and Defenses under the Amparo Rule;
3. *AFP Radio Message*,²¹ dated June 9, 2009 and June 11, 2009, showing that the AFP immediately conducted an inquiry and investigation on the reported abduction of petitioner;
4. *Initial Report*,²² dated May 26, 2009, of the PNP showing the actions taken and to be pursued after the alleged abduction was reported to them;
5. *Special Report*,²³ dated May 20, 2009, of Chief Ronald R. Fernandez of the Philippine National Police of La Paz, Nueva Ecija;
6. *Letter*,²⁴ dated May 26, 2009, of the Chief of Police Anti-Crime and Emergency Response (PACER), Leonardo Arias Espina, to the Founding Chairperson of KARAPATAN inviting Petitioner "to shed light on the incident."

¹⁷ *Id.*, at pp. 164-176, Formal Offer of Evidence, dated August 3, 2009.

¹⁸ *Id.*, at pp. 73-74, of General Victor Sabio Ibrado, AFP, Exh. "1"; pp. 79-80, of Lieutenant General Delfin Bangit, AFP, Exh. "5"; pp. 81-82, of Major General Ralph Villanueva, AFP, Exh. "6;" pp. 83-84, of PC Supt. Leon Nilo A. Dela Cruz, PNP, Exh. "7"; pp. 87-88, of PSSupt. Rudy Gamido Lacadin, Exh. "9;" pp. 110-111, of Police Director General Jesus A. Verzosa, Exh. "17";

¹⁹ *Id.*, at pp. 121-123, of Secretary Gilberto Teodoro, Jr.;

²⁰ *Id.*, at pp. 124-125.

²¹ *Id.*, at pp. 77-78, Exhs. "3" & "4."

²² *Id.*, at pp. 84-85, Exh. "8."

²³ *Id.*, at p. 18, Exh. "10."

²⁴ *Id.*, at p. 91, Exh. "11."

7. *Letter*,²⁵ dated May 27, 2008 and June 1, 2009, both of the Police Chief Superintendent Gil C. Meneses of PNP, Region 3, to Sister Cecile Ruiz of KARAPATAN inviting Petitioner and Carabeo;
8. *Letter*,²⁶ dated May 28, 2009 of the Secretary-General of KARAPATAN to Police Senior Superintendent Espina showing KARAPATAN's knowledge of the investigations being conducted by the PNP on Petitioner's abduction;
9. *Final Report*,²⁷ dated June 5, 2009, of Police Senior Superintendent Rudy Lacadin;
10. *Investigation Report*,²⁸ dated June 23, 2009, of Col. Rodolfo Arizabal of the 7th Infantry Division of the Philippine Army stating that there were no factual evidence to prove Petitioner's alleged abduction;
11. *First Progress Report*,²⁹ dated May 27, 2009, *2nd Progress Report*³⁰ and *3rd Progress Report*,³¹ all by Police Chief Gil Meneses of PNP, Region 3, to prove that the PNP carried out and continually pursued the necessary investigations on the alleged abduction of Petitioner and her companions despite their lack of cooperation;
12. *Investigation Report*,³² dated June 29, 2009, of Police Chief Superintendent Gil Meneses which shows that actions and investigations were made by the PNP on the reported abduction;

²⁵ *Id.*, at p. 93, Exh. "12;" p. 94, Exh. "13."

²⁶ *Id.*, at p. 92, Exh. "15."

²⁷ *Id.*, at pp. 95-97, Exh. "13."

²⁸ *Id.*, at pp. 107-109, Exh. "16."

²⁹ *Id.*, at pp. 115-116.

³⁰ *Id.*, at pp. 117-118.

³¹ *Id.*, at pp. 119-120.

³² *Id.*, at pp. 179-185.

13. *Letter*,³³ dated July 24, 2009, of Police Chief Superintendent Meneses to Petitioner reiterating his invitation to aid the PNP in determining the identity of the alleged abductors of Petitioner and her companions.

EVALUATION/DISCUSSION

By the very nature of the Petition and the proceedings, the hearing of this Petition was conducted not to determine any guilt, whether criminal, civil or administrative, of any individual relating to this incident of alleged abduction, detention and torture of the Petitioner. The hearing sought to ascertain whether the constitutional and civil rights of the Petitioner have been violated to justify the grant of reliefs and remedial measures prayed for.

First Prayer:

Privilege of Amparo

Respondents posited that the supposed abduction of Petitioner and her companions was stage-managed. Respondents presented PNP reports³⁴ showing that a certain Gerry Galas, a rebel returnee, together with three unidentified persons, one female and two males, suddenly entered the house of Galas' cousin, Jesus Paulo, in the evening of May 18, 2009, asking to stay for the night. Out of fear, Paulo allowed them to stay. However, the reports went on to reveal that the three persons prevented Paulo and his two sons from going out of the house for security reasons. Galas left while the three other persons stayed until the following day, May 19, 2009. At around 1:30 p.m., eight armed men barged into Paulo's house forcibly taking the three persons. The woman

³³ *Id.*, at p. 186.

³⁴ *Supra* at Notes 22, 23 & 32.

repeatedly shouted the name "ELISA ROXAS." Later, the three persons taken were identified as Petitioner and her two companions, Carabeo and Jandoc.

Respondents pointed out that nobody knew where Petitioner and her companions were staying. Respondents claimed that it was only Petitioner and her 2 companions who knew where they were staying as in fact they prevented Paulo and his two sons from leaving the house. Respondents argued that it is *"therefore logical to conclude that they (petitioner, et al.) were also the ones who could have given the information to the said "abductors" of their whereabouts at that time. Hence, their staged abduction in the afternoon of May 19, 2009."* Respondents also maintained that Petitioner and her two companions chose Paulo's house as their *"staging area"* to await the arrival of the armed individuals to take them away. Unfortunately, this conclusion is not factual-based. It hinges principally on conjectures, suppositions and deductions. In other words, there is no evidence that the abduction was an elaborate charade or fabrication.

We have carefully reviewed the evidence on record and came to the conclusion that Petitioner was, indeed, abducted. As former Regional Trial Court Judges, we have had extensive experiences with perjurers and prevaricators falsely testifying in our courts. However, in this case, we are not prepared to accept the insinuation that the physical injuries sustained by the Petitioner were self-inflicted.

During her testimony on July 30, 2009, Petitioner affirmed all the allegations in her petition and the statements contained in her Affidavits narrating her ordeal in the hands of her abductors. We find Petitioner's testimony to be credible and worthy of belief for despite the grueling cross-examination by the OSG and clarificatory inquiries from the Court, Petitioner was unwavering in her affirmation of the ordeal she went through. There is no

evidence that the whole incident was concocted or fabricated. Despite insignificant lapses in her narration, which could only prove that the same was not rehearsed, Petitioner's testimony during cross-examination, in fact, explained in full and amplified the allegations in the petition. We likewise find her straightforward admission that she is a human rights activist and, thus, she may be biased against the military authorities as proof of her honesty and candor, knowing fully well that her bias or prejudice could also be taken against her to impute motive in testifying.

Despite these overwhelming testimonies of the Petitioner and her witnesses, Respondents could only offer the argument that the abduction was stage-managed without offering any credible proof to substantiate said allegation. Their allegations that because Jesus Paulo is not Petitioner's friend and had reluctantly allowed Petitioner and her companions to stay in his house out of fear, and that Petitioner stayed until the following day despite promising to leave first thing in the morning to prove that Petitioner or her companions staged the abduction, are specious and baseless, if not illogical. Respondents' Return on the Petition and documentary evidence contain unfounded insinuations which do not refute the fact of abduction and torture of the Petitioner.

The Police report and the medical report clearly proved that Petitioner was not only actually abducted, but was also tortured. Respondents, therefore, are not competent to contradict the same because they themselves admitted that they had no prior knowledge, no participation and no inkling about the entire incident.

Dr. Reginaldo Pamugas and Dr. Geneve Rivera-Reyes, the medical doctors who examined Petitioner a day after her release, found abrasions and tenderness on Petitioner's knees and wrist consistent with Petitioner's narration of the torture she suffered. The doctors observed Petitioner and found her suffering from

acute stress disorder and that she was obviously under emotional and physical pain. As a result, Petitioner had to undergo a serious psychological examination.

Respondents never refuted the Medical Certificate nor assailed the credibility of the medical doctors who examined Petitioner after her abduction and torture. Respondents never even alleged that the findings in the medical certificate were false and untrue. Logic dictates that we should come to the conclusion that the injuries sustained by the petitioner were real. Absent any allegation or proof that said pieces of evidence are false or falsified, We have to accord the same great weight and credibility.

In *The Secretary of National Defense, et al., vs. Manalo (Amparo Case)*,³⁵ the Supreme Court, citing the international case of *Ortiz v. Guatemala*, instructs:

“The Commission's findings of fact were mostly based on the consistent and credible statements, written and oral, made by Sister Ortiz regarding her ordeal. These statements were supported by her recognition of portions of the route they took when she was being driven out of the military installation where she was detained. She was also examined by a medical doctor whose findings showed that the circular second degree burns on her back and abrasions on her cheek coincided with her account of cigarette burning and torture she suffered while in detention.

With the secret nature of an enforced disappearance and the torture perpetrated on the victim during detention, it logically holds that much of the information and evidence of the ordeal will come from the victims themselves, and the veracity of their account will depend on their credibility and candidness in their written and/or oral statements. Their statements can be corroborated by other evidence such as physical evidence left by the torture they suffered or landmarks they can identify in the places where they were detained.”

³⁵ *Supra* at Note 3.

There is no doubt, therefore, that Petitioner's claims of abduction, detention and torture are factual and true.

The question remaining therefore to be answered is, considering her abduction and torture, is Petitioner entitled to the privilege of the writ of amparo?

We rule in the affirmative.

Amparo literally means amparar or "to shelter" or "to protect." The name stems from the nature and intent of the writ—a judicial procedure for the protection of certain constitutional rights.³⁶ Later, the writ evolved for several purposes: protection of personal freedom, review of constitutionality of statutes and judicial decision, judicial review of administrative actions and protection of peasants' rights derived from the agrarian reform process.³⁷

Due to the rising number of reported extrajudicial killings and enforced disappearances in our country and to protect the people's constitutional rights, the Supreme Court promulgated "**The Rule on the Writ of Amparo**" which took effect on October 24, 2007.³⁸ The nature of the writ is defined in **Section 1** as a remedy "*available to any person whose right to life, liberty or security*" is violated or "*threatened with violation by an unlawful act or omission by a public official or employee or of a private individual or entity.*"³⁹

Clearly, the writ covers both actual and threatened violations of right to life, liberty or security committed by either public officials or employees, or private individuals or entities in the form

³⁶ Atty. Neri Javier Colmenares, *The Writ of Amparo: A comparative Review*.

³⁷ Supreme Court's Annotation to the Writ of Amparo, p. 45.

³⁸ *Id.*, at p. 47.

³⁹ *Supra* at Note 35

of *extralegal killings*⁴⁰ and *enforced disappearances*⁴¹ or threats thereof.⁴²

It is true that Petitioner had been released from captivity. However, it is also true that Petitioner's movements are restricted⁴³ as there remains a threat to her and her family's life, liberty and/or security from her abductors. In fact, Petitioner's abductors went to the extent of giving her a SIM card and an email address where they can communicate with Petitioner. In addition, before she was released from captivity, Petitioner's abductors even threatened her, as well as the rest of her family, with harm to prevent her from seeking assistance from human rights groups. Clearly, Petitioner's rights to security, to life and liberty, remain under threat.

The right to security finds a textual hook in **Article III, Section 2 of the 1987 Constitution**.⁴⁴ Section 2 not only limits the state's power over a person's home and possessions, but more importantly, protects the privacy and sanctity of the person himself.⁴⁵ On the other hand, the right to life under **Article III, Section 1** guarantees essentially the right to be alive — upon which the enjoyment of all other rights is preconditioned — the right to security of person is a guarantee of the secure quality of this life.⁴⁶

⁴⁰ Extralegal killings are committed without due process of law which include illegal taking of life regardless of the motive, summary and arbitrary executions, "salvagings" even of suspected criminals, and threats to take the life of persons who are openly critical of erring government officials and the like.

⁴¹ Enforced disappearances, on the other hand, include arrest, detention or abduction of a person by a government official or organized groups or private individuals acting with the direct or indirect acquiescence of the government; the refusal of the State to disclose the fate or whereabouts of the person concerned or a refusal to acknowledge the deprivation of liberty which places such person outside the protection of law

⁴² *Supra* at Note 36.

⁴³ *Supra* at Note 3.

⁴⁴ "Sec. 2. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge."

⁴⁵ *Supra* at Note 3.

⁴⁶ *Id.*

In a broad sense, the right to security of person "emanates in a person's legal and uninterrupted enjoyment of his life, his limbs, his body, his health, and his reputation. It includes the right to exist, and the right to enjoyment of life while existing, and it is invaded not only by a deprivation of life but also of those things which are necessary to the enjoyment of life according to the nature, temperament, and lawful desires of the individual."⁴⁷ The right to security of person is "freedom from fear".⁴⁸

Petitioner is admittedly an activist who, in her college years, began volunteering for community organizations advocating the rights of the youth, the homeless and the elderly. She would later on become involved with Filipino organizations aligned with the *Bagong Alyansang Makabayan* (BAYAN). Her self-professed advocacy and sympathy towards the plight of families left behind by victims of human rights violations, particularly enforced disappearances and extrajudicial killings, inspired her to become one of the founding members of Bayan-USA in 2005. In the same year, she became one of the organizers of a Bayan-USA contingent to the International Solidarity Mission (ISM) to the Philippines, a fact-finding mission that investigated the rampant human rights violations.

Significantly, Petitioner's exercise of her political rights, beliefs and aspirations forms part of the freedom of speech and expression. In the absence of proof that Petitioner has engaged or is engaged in criminal acts in pursuit of her ideals, Petitioner is entitled to the protection guaranteed under Section 18 of Article III of the 1987 *Philippine Constitution*, which states that "*no person shall be detained solely by reason of his political beliefs and aspirations*". Certainly, Petitioner's being an "activist" *per se* does not justify the infliction of any punitive act against her, let alone, the imposition of any form of restraint on

⁴⁷ *Id.*

⁴⁸ *Id.*

her freedom to life, liberty and security such as her abduction and torture.

In the context of Section 1 of the Amparo Rule, "freedom from fear" is the right and any threat to the rights to life, liberty or security is the actionable wrong.⁴⁹ Thus, in the amparo context, it is more correct to say that the "right to security" is actually "freedom from threat". Viewed in this light, the "threatened with violation" Clause in the latter part of Section 1 of the Amparo Rule is a form of violation of the right to security.⁵⁰

With Petitioner's reappearance, this continuing threat to her and her family's lives is apparent,⁵¹ forcing her to immediately leave the Philippines, to file this petition and to seek sanctuary in the arms of KARAPATAN.⁵²

As the Supreme Court further ruled in the *Amparo* case:

"xxx (T)he circumstances of respondents' abduction, detention, torture and escape reasonably support a conclusion that there is an apparent threat that they will again be abducted, tortured, and this time, even executed. These constitute threats to their liberty, security, and life, actionable through a petition for a writ of amparo."

Noteworthy, too, is the fact that even before the "investigations" on petitioner's abduction have been concluded, the Presidential Human Rights Committee (PHRC) led by Executive Secretary Eduardo Ermita and the OSG had already prejudged said abduction as "stage-managed" or a fabrication done at the expense of the Philippine government. This is an unfortunate mental lapse or "slip of the tongue". This Court is willing to let this misstatement pass and not take it against the

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

Respondents as this exemplifies a reciprocal bias against the Petitioner and the organization she represents. These posturings from both sides indicate a mutual distrust of each other's sincerity and willingness to unearth and investigate the real culprits behind this incident. It is evidently clear that Petitioner resents the Respondents and the feeling is mutual. However, Our courts are not mandated to take sides. Our solemn duty is to uphold the law and protect constitutional rights.

Indeed, to cite the Honorable Court's pronouncement in the Amparo case:

“As the government is the chief guarantor of order and security, the Constitutional guarantee of the rights to life, liberty and security of person is rendered ineffective if government does not afford protection to these rights especially when they are under threat. Protection includes conducting effective investigations, organization of the government apparatus to extend protection to victims of extralegal killings or enforced disappearances (or threats thereof) and/or their families, and bringing offenders to the bar of justice.

The duty to investigate must be undertaken in a serious manner and not as a mere formality preordained to be ineffective. An investigation must have an objective and be assumed by the State as its own legal duty, not as a step taken by private interests that depends upon the initiative of the victim or his family or upon their offer of proof, without an effective search for the truth by the government.

X x x

x x x

x x x

In sum, we conclude that respondents' right to security as “freedom from threat” is violated by the apparent threat to their life, liberty and security of person.

The right to security as a guarantee of protection by the government is likewise violated by the ineffective investigation and protection on the part of the military.”

Under these circumstances, there is *substantial evidence*⁵³ to warrant the conclusion that there is a threatened violation of Petitioner's right to security⁵⁴ which the government is tasked to prevent. There may have been no proof directly and specifically linking any of the Respondents to Petitioner's abduction and torture, but their mandated legal duty requires them to protect Petitioner, regardless of her bias or political beliefs, from other persons or entities who are threatening to violate Petitioner's right safeguarded by the Writ of Amparo.

At this juncture, We must declare that Respondents should be discharged from being party-respondents in this petition, inasmuch as the doctrine of *Command Responsibility*⁵⁵ upon

⁵³ Sections 17 and 18 of the Rule on Amparo provide for the degree of proof required, viz.:

Sec. 17. Burden of Proof and Standard of Diligence Required. — The parties shall establish their claims by substantial evidence.

xxx xxx xxx

Sec. 18. Judgment. — . . . If the allegations in the petition are proven by substantial evidence, the court shall grant the privilege of the writ and such reliefs as may be proper and appropriate; otherwise, the privilege shall be denied.

⁵⁴ *Supra* at Note 31.

⁵⁵ The doctrine is now embodied in Section 28 of the Treaty of Rome which provides:

(28) In addition to other grounds of criminal responsibility under this statute for crimes within the jurisdiction of the Court:

(a) A military commander or person effectively acting as a military commander shall be criminally responsible for crimes within the jurisdiction of the Court committed by forces under his or her effective command and control, or effective authority and control, as the case may be, as a result of his or her failure to exercise control properly over such forces, where:

(i) That military commander or person either knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes; and

(ii) That military commander or person failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit

which Petitioner impleaded them, does not apply in this case. Father Joaquin G. Bernas, a well-known legal luminary, defined Command Responsibility in its simplest terms as *"the responsibility of commanders for crimes committed by subordinate members of the armed forces or other persons subject to their control in international wars or international conflicts"*.

The doctrine of Command Responsibility was first codified in Protocol I to the Geneva Convention of 1977.⁵⁶ On the basis of the text of Protocol I, the International Committee of the Red Cross (ICRC) Commentary identified three conditions for command responsibility, to wit:

(i) the person to be held responsible must be the superior of the person or persons committing the breach of the convention;

(ii) the superior must have known or had information which should have enabled him to conclude that a breach was being committed or was going to be committed; and

the matter to the competent authorities for investigation and prosecution.

(b) With respect to superior and subordinate relationships not described in paragraph (a), a superior shall be criminally responsible for crimes within the jurisdiction of the Court committed by subordinates under his or her effective authority and control, as a result of his or her failure to exercise control properly over such subordinates, where:

- (i) The superior either knew, or consciously disregarded information which clearly indicated, that the subordinates were committing or about to commit such crimes;
- (ii) The crimes concerned activities that were within the effective responsibility and control of the superior; and
- (iii) The superior failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution. (*underscoring supplied*)

⁵⁶<http://wikipedia.org> defines Protocol I as follows: The Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol 1) is an amendment to the Geneva Conventions. Adopted on June 8, 1977 by the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts presided over by Pierre Graber of Switzerland.

(iii) the superior did not take all feasible measures within his powers to prevent the breach.

The doctrine of Command Responsibility is part of the customary international law. Under Article II, Section 2 of the 1987 Constitution, the Philippines adopts the generally accepted principle of international law as part of the law of the land. By this token, the doctrine of Command Responsibility, therefore, applies in this jurisdiction.

Be that as it may, We must state that in the course of the proceedings of this petition, Petitioner failed to prove the existence of the elements of Command Responsibility that would otherwise hold Respondents liable for her abduction and torture under the said doctrine. At most, Petitioner only "believed" that the military was behind her abduction and torture because the same were carried out in the same "patterns" of abduction and kidnapping done by military forces or persons with authorities on others perceived to be enemies of the state.

However, Petitioner's mere belief, *sans* any proof to substantiate the same, does not suffice to warrant Respondents' implication in this case. The President, most especially, is clothed with state immunity, which shields her during her incumbency from any and all unfounded suits that may interfere in the discharge of her official functions as President of the Republic. In light of the foregoing, Respondents can not, therefore, be made party-respondents in this case solely on the basis of Petitioner's unfounded claim that the military authored her abduction and torture.

Articles 5 and 6 of the Declaration on the Human Rights of Individuals who are not Nationals of the Country where they live, adopted by the UN General Assembly resolution 40/144 of 13 December 1985,⁵⁷ provide in part:

"Article 5

1. Aliens shall enjoy, in accordance with domestic law and subject to the relevant international obligation of the State in which they are present, in particular the following rights:

(a) The right to life and security of person; no alien shall be subjected to arbitrary arrest or detention; no alien shall be deprived of his or her liberty except on such grounds and in accordance with such procedures as are established by law;

(b) The right to protection against arbitrary or unlawful interference with privacy, family, home or correspondence;

xxx

Article 6

No alien shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment and, in particular, no alien

⁵⁷ "Considering that the Charter of the United Nations encourages universal respect for and observance of the human rights and fundamental freedoms of all human beings, without distinction as to race, sex, language or religion,

Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth in that Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Considering that the Universal Declaration of Human Rights proclaims further that everyone has the right to recognition everywhere as a person before the law, that all are equal before the law and entitled without any discrimination to equal protection of the law, and that all are entitled to equal protection against any discrimination in violation of that Declaration and against any incitement to such discrimination,

Being aware that the States Parties to the International Covenants on Human Rights undertake to guarantee that the rights enunciated in these Covenants will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Conscious that, with improving communications and the development of peaceful and friendly relations among countries, individuals increasingly live in countries of which they are not nationals,

Reaffirming the purposes and principles of the Charter of the United Nations,

Recognizing that the protection of human rights and fundamental freedoms provided for in international instruments should also be ensured for individuals who are not nationals of the country in which they live,

Proclaims this Declaration."

shall be subjected without his or her free consent to medical or scientific experimentation. "

Conformably, notwithstanding Petitioner's alien status, she being a foreigner temporarily staying in the Philippines, We resolve to extend to her the privilege of the Writ of Amparo, effective during her stay in the Philippines.

Second Prayer:

Inspection Order

The sensitive nature of an inspection order requires that it shall be the subject of a motion and shall be duly heard. To prevent its misuse, the Rule requires that the motion also state in sufficient detail the place or places to be inspected.⁵⁸ Thus:

"(b) Inspection Order. — The court, justice or judge, upon verified motion and after due hearing, may order any person in possession or control of a designated land or other property, to permit entry for the purpose of inspecting, measuring, surveying, or photographing the property or any relevant object or operation thereon.

The motion shall state in detail the place or places to be inspected. It shall be supported by affidavits or testimonies of witnesses having personal knowledge of the enforced disappearance or whereabouts of the aggrieved party.

xxx

The movant must show that the inspection order is necessary to establish the right of the aggrieved party alleged to be threatened or violated. xxx"

Petitioner alleged that the travel from the place where she was abducted to the place where she was detained was more than 1 hour; upon reaching the place, she was made to enter into a room which she believed to be a jail cell as they had to open a door with iron bars; that during her detention in said place, she heard

⁵⁸ *Supra* at Note 36.

construction activities, which stopped in the afternoon, gun firing as though there is a firing range in the area, loud sounds of airplanes taking off and landing, and sounds of goats. In view of these, observations made mostly while she was blindfolded, Petitioner perceived that she was brought to Fort Magsaysay in Laur, Nueva Ecija. This conclusion is, at most, speculative.

Apart from these obscure perceptions, Petitioner failed to offer any substantial and convincing proof that the place where she was brought to was, indeed, Fort Magsaysay Camp or some place which resembles a similar military facility.

As Respondents correctly argued, considering that Petitioner is an American citizen who claimed to be unfamiliar with Fort Magsaysay or its immediate vicinity, she cannot possibly have any familiarity or actual knowledge of the buildings in or around Fort Magsaysay or the relative distances to and from the same. Petitioner failed to offer a single evidence to definitely prove that she was brought to Fort Magsaysay to the exclusion of other places. It is also unfortunate that her two other companions Messrs. Carabeo and Jandoc, chose not to appear in Court to corroborate the testimony of the Petitioner.

The prayer for inspection appears to be merely a "fishing expedition" which We must deny. We cannot authorize an inspection of a place which Petitioner has failed to identify with definiteness or certainty. Otherwise, we will be granting Petitioner a blanket authority to inspect any and all places she perceives to be connected to the complained incident.

Third prayer:

Production Order

The amparo production order provides under Section 14(c) that:

“(c) Production Order. - The court, justice or judge, upon verified motion and after due hearing, may order any person in possession, custody or control of any designated documents, papers, books accounts, letters photographs, objects or tangible things, or objects in digitized or electronic form, which constitute or contain evidence relevant to the petition or return, to produce and permit their inspection, copying or photographing by or on behalf of the movant.

xxx”

This may be likened to the production of documents or things under **Section 1, Rule 27 of the Rules of Civil Procedure**⁵⁹ which provides in part:

“Section 1. Motion for production or inspection order. — Upon motion of any party showing good cause therefor, the court in which an action is pending may (a) order any party to produce and permit the inspection and copying or photographing, by or on behalf of the moving party, of any designated documents, papers, books of accounts, letters, photographs, objects or tangible things, not privileged, which constitute or contain evidence material to any matter involved in the action and which are in his possession, custody or control ...”

Considering, however, that the reports on the investigations on Petitioner relative to her abduction had already been submitted by Respondents and had, in fact, been formally offered as evidence in this petition, and in the absence of any proof that there exist other reports on Melissa Roxas' abduction, We find that ordering Respondents to produce such inexistent document would be unnecessary and useless.

⁵⁹ *Supra* at Note 3.

*Fourth prayer:
Privilege of the
Writ of Habeas
Data*

The right to truth is a component of the right to life, liberty and security. The right to truth is the bedrock of the rule of law, which the State is obligated to protect with all obstinacy under national and international law. Indeed, truth has and will always set us free.⁶⁰

For all these reasons and more, the writ of habeas data hopes to provide an additional remedy to terminate the extralegal killings and enforced disappearances plaguing our country.⁶¹ The writ of habeas data will not only complement the writ of amparo. It will stand as an independent remedy to enforce the right to information privacy. The literal translation from Latin of **Habeas Data** is “[we command] you have the data”⁶² or you should have the data.⁶³ For all persons have the right to access information about themselves, especially if it is in the possession of the government. Any violation of this right ought to give the aggrieved person the remedy to go to court to modify, remove, or correct such misinformation. The right to access and control personal information is essential to protect one’s privacy, honor and personal identity, even as it underscores accountability in information gathering.⁶⁴ Habeas Data is designed to protect the image, privacy, honor, information, self-determination and freedom of information of a person.⁶⁵

Sections 1 and 6 of the Rule on the Writ of Habeas Data provide that:

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *en.wikipedia.org/wiki/*

⁶³ Atty. Neri Javier Colmenares, *The Primer on the Writ of Habeas Data* (May 14, 2008).

⁶⁴ *Id.*

⁶⁵ *Id.*

"Section 1. Habeas Data. - The writ of habeas data is a remedy available to any person whose right to privacy in life, liberty or security is violated or threatened by an unlawful act or omission of a public official or employee, or a private individual or entity engaged in the gathering, collecting or storing of data or information regarding the person, family, home and correspondence of the aggrieved party. "

xxx

"Sec. 6. A verified petition for a writ of habeas data should contain:

- (a) the personal circumstances of the petitioner and the respondent;
- (b) the manner the right to privacy is violated or threatened and how it affects the right to life, liberty or security of the aggrieved party;
- (c) the actions and recourses taken by the petitioner to secure the data or information;
- (d) the location of the files, registers or databases, the government office and the person in charge, in possession or in control of the data or information, if known;
- (e) the reliefs prayed for, which may include the updating, rectification, suppression or destruction of the database or information or files kept by the respondent.

In case of threats, the relief may include a prayer for an order enjoining the act complained of; and

- (f) such other relevant reliefs as are just and equitable."

In answer thereto, Respondents are required to file a *Return* which shall contain the following⁶⁶:

- "(a) The lawful defense such as national security, state secrets, privileged communication, confidentiality of the source of information of media and others;
- (b) In case of respondent in charge, in possession or in control of the said data or information, subject of the petition;

⁶⁶ Section 10.

- (i) a disclosure of the data or information about the petitioner, the nature of such data or information, and the purpose for its collection;
 - (ii) the steps or actions taken by the respondent to ensure the security and confidentiality of the data or information; and
 - (iii) the currency and accuracy of the data or information; and other allegations relevant to the resolution of the proceeding.
- (c) Other allegations relevant to the resolution of the proceeding.

A general denial of the allegations in the petitions shall not be allowed."⁶⁷

Under these premises, Petitioner prayed that all the records, intelligence reports and reports on investigations conducted on Melissa C. Roxas or Melissa Roxas be produced and eventually expunged from the records. Petitioner claimed to be included in the Government's Order of Battle under Oplan Bantay Laya which listed political opponents against whom false criminal charges were filed based on made up and perjured information.

Pending resolution of this petition and before Petitioner could testify before Us, Ex-army general Jovito Palparan, Bantay party-list, and Pastor Alcover of the Alliance for Nationalism and Democracy party-list held a *press conference*⁶⁸ where they revealed that they received an information from a female NPA rebel who wanted out of the organization, that Petitioner was a communist rebel. Alcover claimed that said information reached them thru a letter with a photo of Petitioner holding firearms at an NPA training camp and a video CD of the training exercises.

Clearly, and notwithstanding Petitioner's denial that she was the person in said video, there were records of other investigations on Melissa C. Roxas or Melissa Roxas which violate her right to privacy. Without a doubt, reports of such nature have reasonable

⁶⁷ *Id.*

⁶⁸ Julie Aurelio, Melissa Roxas, NPA member, THE PHILIPPINE DAILY INQUIRER, July 25, 2009, available on line URL, <http://www.inquirer.net>

connections, one way or another, to petitioner's abduction where she claimed she had been subjected to cruelties and dehumanizing acts which nearly caused her life precisely due to allegation of her alleged membership in the CPP-NPA. And if said report or similar reports are to be continuously made available to the public, Petitioner's security and privacy will certainly be in danger of being violated or transgressed by persons who have strong sentiments or aversion against members of this group. The unregulated dissemination of said unverified video CD or reports of Petitioner's alleged ties with the CPP-NPA indiscriminately made available for public consumption without evidence of its authenticity or veracity certainly violates Petitioner's right to privacy which must be protected by this Court. We, thus, deem it necessary to grant Petitioner the privilege of the Writ of Habeas Data.

Fifth prayer:

Return of personal belongings

Inasmuch as her abductors have yet to be identified, and in view of the fact that Petitioner have failed to specifically impute Respondents' culpability or of any of the members of the military, directing Respondents to return Petitioner's belongings would be an exercise in futility. We cannot order Respondents to return items not proven to be in their possession.

WHEREFORE, the Petition is **PARTIALLY MERITORIOUS**. This Court hereby *grants* Petitioner the privilege of the Writ of Amparo and Habeas Data.

Accordingly, Respondents are enjoined to refrain from distributing or causing the distribution to the public of any records in whatever form, reports, documents or similar papers relative to Petitioner's Melissa C. Roxas, and/or Melissa Roxas; alleged ties to the CPP-NPA or pertinently related to the complained incident. Petitioner's prayers for an inspection order, a production order and for the return of the specified

personal belongings are denied for lack of merit. Although there is no evidence that Respondents are responsible for the abduction, detention or torture of the Petitioner, said Respondents pursuant to their legally mandated duties are, nonetheless, ordered to continue/complete the investigation of this incident with the end in view of prosecuting those who are responsible. Respondents are also ordered to provide protection to the Petitioner and her family while in the Philippines against any and all forms of harassment, intimidation and coercion as may be relevant to the grant of these reliefs.

SO ORDERED.

ORIGINAL SIGNED

NOEL G. TIJAM
Associate Justice

WE CONCUR:

ORIGINAL SIGNED

ARTURO G. TAYAG
Associate Justice

ORIGINAL SIGNED

NORMANDIE B. PIZARRO
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the decision were reached in consultation before the same was assigned to the writer of the opinion of the court.

ORIGINAL SIGNED

NOEL G. TIJAM
Chairman
Former Special Sixteenth Division

CERTIFIED TRUE COPY

ATTY. DONNA LARA B. ORUPESA
DIVISION CLERK OF COURT
COURT OF APPEALS