

**TIPC-Monitoring Body
Resolution No. 2-B, Series of 2011.**

CFA Case No. 2528¹

**IN RE: COMPLAINT OF THE KILUSANG MAYO UNO
LABOR CENTER AGAINST THE GOVERNMENT OF
THE REPUBLIC OF THE PHILIPPINES FOR
VIOLATION OF ILO CONVENTION NO. 87.**

**RECOMMENDING EXPEDITIOUS INVESTIGATION AND
RESOLUTION BY THE APPROPRIATE GOVERNMENT
BRANCH, BODIES OR AGENCIES WITH REQUEST FOR
SPECIFIC TIMELINES AND CASE PROGRESS REPORT ON
THE TWELVE (12) CASES OF HARASSMENT IN ILO CASE
NO. 2528.**

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RESOLUTION

WHEREAS, pursuant to the mandate of the TIPC as the High Level Tripartite Monitoring Body², evaluation of the twelve (12) cases/incidents of harassment raised by the Kilusang Mayo Uno in ILO Case No. 2528 showed that all are possibly labor-related under Convention No. 87 considering that the circumstances, if proved, would constitute an infringement of the exercise of freedom of association and the right to organize based on the criteria set under TIPC-Monitoring Body Resolution No.1, series of 2010³;

WHEREAS, of the twelve (12) harassment cases, four (4) cases have clear recommendation for closure or archiving from PNP-Task Force Usig, DOJ Task Force 211, and/or Commission on Human Rights, these are:

¹ A total of sixty-two (62) cases cited in ILO Case No. 2528. Thirty-nine (39) are extra-judicial killings; eleven (11) abductions; and twelve (12) are harassment cases.

² TIPC Resolution No. 1, Series of 2010, constituted the TIPC as the High Level Tripartite Monitoring Body on the Application of International Labor Standards, in particular International Labor Organization (ILO) Convention on Freedom of Association and Protection of the Right to Organize (No.87). The TIPC Monitoring Body is mandated to (1) facilitate "out of the box solution" to long standing CFA cases; (2) monitor and report progress on active CFA cases; and (3) facilitate gathering of relevant information on complaints submitted to the ILO and evaluate and recommend appropriate action/s.

³ Classifying ILO Convention No. 87 Cases with Allegation of Extrajudicial Killings, Harassments and Abduction Into Possibly Labor-Related Under Convention 87 and Possibly Not Labor-Related Under Convention 87.

NAME OF VICTIM /COMPANY/ UNION	RO	STATUS	DATE OF INCIDENT	INITIAL CLASS- IFICATION
1. Rene Acinue Manalo; Nestle Phils., UFE-DFA- KMU	4-A	For closure. His wife executed an affidavit that no incident of harassment happened to her husband.	6/23/03	Possibly labor- related under C87
2. Ricardo Bellamia; no company, NAFLU-KMU	7	For closure. Legitimate arrest. Petition for habeas corpus dismissed.	11/2/07	Possibly labor- related under C87
3. Angelina Ladera; IWS, IWSU		For closure. CHR Pampanga reported that no complaint for harassment was filed with them. PNP reported that she is not in the country since 2005 and travel records were found in the BID showing that Ladera left the country on 29 July 2006 and returned on 30 August 2006. Eventually, she left the county again on 25 September 2008. No records were found indicating her return.		Possibly labor- related under C87
4. Mercy Santomin; Footjoy, United Association of Footjoy		For closure. Per PNP report, no formal complaint was filed by Mercy Santomin. CHR reported that based on the 12 August 2008 report of CHR Region III, complainants averred that they have no plans of filing any complaints/charges against the military. That they were just annoyed or bothered by the way the military conducted their supposed census in the area. CHR Region III scheduled a dialogue with the complainants and the military twice, but the former did not attend. Showing lack of interest on the part of the complainants, CHR reported that it has no option but to terminate and close the case.	n/a	Possibly labor- related under C87

WHEREAS, with respect to the case of **Vincent Borja**, a full-time organizer and KMU National Council Member for Eastern Visayas, the Commission on Human Rights Regional Office No. VII earlier verified that the victim was arrested and detained at the Tacloban City Jail. Based on the information gathered last year, Vincent Borja was arrested by virtue of a warrant of arrest for the murder of a certain Marianito Calibo. He was released on 13 October 2010 after the lone witness failed to identify him in open court;

WHEREAS, on the remaining seven (7) cases, progress report on the investigation and/prosecution is required thus, in deference to the independence and jurisdiction of the concerned branches of Government and/or agencies, the TIPC-Monitoring Body requests that:

1. The Commission on Human Rights (CHR) conducts an in-depth investigation on the circumstances of the following cases or conduct a "final pass" on those that has been investigated by the PNP-Task Force Usig and/or DOJ-Task Force 211, with a view to accord justice to the victims and their families at the soonest possible time:

NAME OF VICTIM /COMPANY/ UNION	RO	STATUS	DATE OF INCIDENT	INITIAL CLASSIFICATION
1. <i>Harassment at Fresh Banana Agricultural Corporation (Osmiguel):</i> Aldrene Tambalo, Roque Roncales & Nestor Legaspi; NAMAOS	11	With complaint - CHR-XI-09-0060 (CV). However, PNP obtained Affidavit of Legaspi stating that he was not harassed. For follow-up investigation by CHR.	11/14/04 11/27/04 12/4/04	Possibly labor-related under C87
2. <i>Harassment at Fresh Banana Agricultural Corporation (Suyapa):</i> Vicente Barrios; et al. (NAMASUFA), Zinafora Salomag, et al. (Packing Plant 92 Workers Union, & Joel Cuyos, et al. (NAMASAN)	11	Complaint filed before CHR Region XI, CHR-XI-2006-2856, dismissed for lack of evidence. PNP obtained Affidavit issued by Barrios stating that he can no longer remember the incident that transpired. For follow-up investigation by CHR.	August 2005	Possibly labor-related under C87
3. <i>Members of Sulpicio lines Workers' Union;</i> Sulpicio Lines	NCR	No criminal complaint filed. Interviews were conducted. CHR motu proprio conducted initial fact finding investigation. For follow-up investigation by the CHR.	n/a	Possibly labor-related under C87
4. <i>Ariel Geres Legaspi;</i> Nestle, UFE-DFA-KMU	4-A	No recorded incident at Alaminos Municipal Police Station and no such person in the name of Ariel Geres Legaspi reside in the municipality of Alaminos, Laguna.	10/31/05	Possibly labor-related under C87
5. <i>Edison Alpiedan, Gerald Daria, Erica Lee Balane, and Christopher Capistrano;</i> Hanjin Garment, AMIHAN	4-A	A complaint for Direct Assault and Physical Injuries were filed against the strikers at the Prosecutor's Office, Binan, Laguna under INQ No. 08-46-C on 6 February 2008. However, only information for Direct Assault was filed absorbing the complaint for Physical Injuries. On 7 February 2008, the arrested strikers posted the necessary bail bond for their temporary release.	2/6/08	Possibly labor-related under C87
6. <i>Noel Tenorio Sanches;</i> Nestle,	4-A	According to the PNP, based on available records, there is no person named Noel Tenorio Sanchez and no case of	6/23/06	Possibly labor-

UFE-DFA-KMU

harassment was reported on 23 June 2006. Further verification made in the barangays of Alaminos, Laguna also yielded negative result.

related
under C87

7. Fifty-two workers
of Chiyoda Integre
Phils.; Chiyoda,
TALIM Chiyoda

4-A

Said workers were dismissed from their jobs for conducting an illegal strike but the termination was later downgraded to a 30-day suspension. On 20 February 2008, the parties forged an agreement where the union, TALIM Chiyoda-Ind., was voluntarily recognized as the exclusive bargaining agent of the rank-and-file workers.

6/20/07

Possibly
labor-
related
under C87

2. The Department of Labor and Employment (DOLE) conducts follow-up action/validation and submit a final report to the TIPC-Monitoring Body on whether the labor issues involved in Chiyoda Integre Phils.; Hanjin Garments, Inc.; Nestle Philippines, Inc.; Phils. Jeon Garments, Inc.; Chong-Won Fashion; and Fresh Banana Agricultural Corp. (both in Osmiguel and Suyapa), has been settled with finality, including the remaining issues if there are any;

WHEREAS, given the long period of time since the occurrence of the complained harassment and no culprit has so far been convicted or serving prison term, whether State elements or private Individuals, the TIPC-Monitoring Body requests the agencies concerned to submit their recommendations and/or reports before end of June 2011 through the Bureau of Labor Relations as the TIPC-Monitoring Body Secretariat.

NOW THEREFORE, BE IT RESOLVED AS IT IS HEREBY RESOLVED, that the TIPC-Monitoring Body:

(1) adopts the recommended closure of the four (4) cases of harassment including the case of **Mr. Vincent Borja**;

(2) refers the seven (7) cases, as indicated, to the Commission on Human Rights for in-depth investigation or "final pass"; and

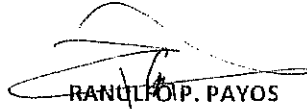
(3) for the DOLE to conduct follow-up action/validation and submit a final report on whether the labor issues related to the harassment cases have already been resolved with finality.

APPROVED this 24th day of May 2011, Occupational Health and Safety Center,
North Ave., Quezon City, Philippines.

EMPLOYERS' SECTOR



ANIANO G. BAGABALDO
Employers Confederation of the Philippines



RANULTO P. PAYOS
Employers Confederation of the Philippines



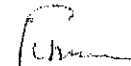
RENE E. CRISTOBAL
Employers Confederation of the Philippines



EDUARDO T. RONDAIN
Employers Confederation of the Philippines



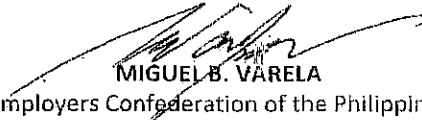
DONALD G. DEE
Employers Confederation of the Philippines



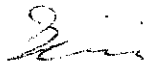
RENE Y. SORIANO
Employers Confederation of the Philippines



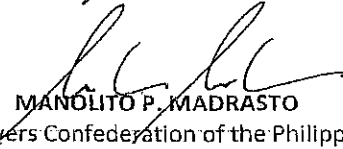
VICENTE LEGARDO JR.
Employers Confederation of the Philippines



MIGUEL B. VARELA
Employers Confederation of the Philippines



ERNESTO O. CECILIA
Employers Confederation of the Philippines



MANOLITO P. MADRASTO
Employers Confederation of the Philippines



SERGIO R. ORTIZ-LUIS, JR.
Employers Confederation of the Philippines



EDGARDO G. LACSON
Employers Confederation of the Philippines



ANCHETA K. TAN
Employers Confederation of the Philippines

LABOR SECTOR



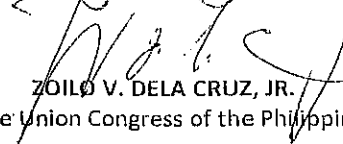
ANGELITO P. CALDERON
Alliance of Filipino Workers



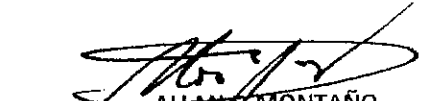
VICTORINO F. BALAIS
Trade Union Congress of the Philippines

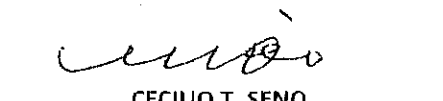



DANIEL L. EDRALIN
Alliance of Progressive Labor

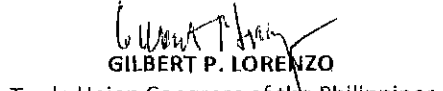



ZOILO V. DELA CRUZ, JR.
Trade Union Congress of the Philippines

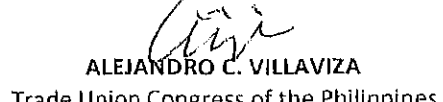

ALLAN S. MONTAÑO
Federation of Free Workers



CECILIO T. SENO
Trade Union Congress of the Philippines

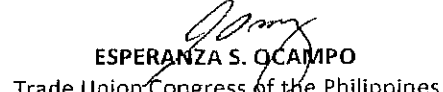

ANTONIO C. ASPER
Federation of Free Workers



GILBERT P. LORENZO
Trade Union Congress of the Philippines



BENJAMIN C. ALAR
National Confederation of Labor


ALEJANDRO C. VILLAVIZA
Trade Union Congress of the Philippines



PEDRO T. DE QUIROZ
Pambansang Diwa ng Manggagawang Pilipino



ESPERANZA S. OCAMPO
Trade Union Congress of the Philippines

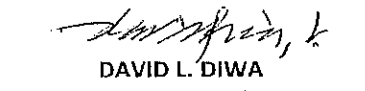

VLADIMIR R. TUPAZ
Trade Unions of the Phils. & Allied Services

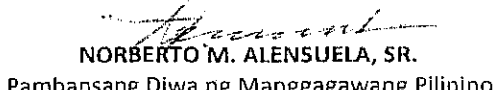

JESUS B. VILLAMOR
Trade Union Congress of the Philippines


NEW APPOINTEES


GERARD R. SENO
Trade Union Congress of the Philippines

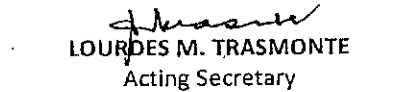

GREGORIO C. DEL PRADO
Alliance of Independent Hotel and Restaurant
Workers Union


DAVID L. DIWA
Lakas Manggagawa Labor Center


NORBERTO M. ALENSUELA, SR.
Pambansang Diwa ng Manggagawang Pilipino


MANUEL P. ARIAS
National Federation of Labor Unions

GOVERNMENT SECTOR


LOURDES M. TRASMONTE
Acting Secretary
Department of Labor and Employment