

The Supreme Court's WRIT OF AMPARO: *will it work?*

Responding to the public clamor to end the spate of extrajudicial killings and enforced disappearances of leftist activists, journalists and suspected rebel sympathizers, the Supreme Court issued last 25 September a new rule aimed at protecting those whose lives, liberty and security are under threat especially by the government.

Called the "Rule on the Writ of Amparo," the new protocol empowers the courts to swiftly issue orders to protect victims and witnesses from further violations of their rights, compel authorities to produce any information vital to the case and allow the inspection of military camps, safehouses or detention facilities, among others.

The promulgation of the rule came two months after the Supreme Court-sponsored National Consultative Summit on Extrajudicial Killings and Enforced Disappearances held July 16-17. Such a rule was among the recommendations given by Karapatan and other human rights groups present at the gathering.

In hailing the writ, a hopeful Chief Justice Reynato Puno said: "This rule will provide the victims of extralegal killings and enforced disappearances the protection they need and the promise of vindication for their rights."

The rule is to take effect on 24 October 2007.

Amparo in a nutshell

The word "amparo" comes from the Spanish verb "amparar," meaning "to protect." The writ itself is of Mexican origin. Known as the *Recurso de Amparo*, it was insti-

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PIYETA by E. Garibay

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The HR Gallery



PIYETA

Oil on canvass
by Emmanuel
Garibay

About the artist

The Kidapawan-born artist holds degrees in sociology and fine arts from the University of the Philippines. He has likewise finished a Masteral course on Divinity at the Union Theological Seminary in Cavite.

Art critic Alice Guillermo says of his work: "Garibay's multi-leveled symbolism which traverses historical periods and contexts makes for an art that continually proffers new insight. His paintings strip the barnacles of conventional religiosity, explode long-held conservative myths, and come up with fresh ways of engagement with religious issues through the power of art."

The Cultural Center of the Philippines cited Garibay as one of the Thirteen Artists Awardee in 2000 and in the same year his work "One on One" was awarded Second Place in the Painting Category, II Bienal del Baloncesto en Balles Artes in Madrid, Spain.

About PIYETA

"Piyeta" is among the more than 200 works of art produced under the auspices of TutoK (Tutok Karapatan), an art project on human rights.

The project had a series of group exhibits organized by its curatorial team, among them Mideo Cruz (featured artist, HR Gallery FHR April-May 2007 issue), and a series of collateral events for human rights education. The artist initiative was started on November 2005, and has come up with a total of 7 exhibition projects from November 2006 to July 2007.

Garibay serves as project chairman for tutoK, with fellow artist Karen Ocampo Flores as project director.

Editor's Note:

We'll exhibit your artworks here. send us photos, illustrations, paintings and other works of art in digital image via e-mail. Please don't forget that the theme should be on human rights.

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Enforced Disappearance can victimize anyone if Arroyo regime's terrorism is not stopped

by Ruth Cervantes

It was half an hour past midnight of 17 November 2006 when eight armed men barged into the home of the Robiños family in Angeles City, Pampanga, about 80 kilometers north of Manila.

The armed men searched the house, while shouting threats and hitting at the Robiños family members. One of the men kicked Romulos Robiños, a tricycle driver, dragged him out of the house and forced him inside a white vehicle.

A family friend said that he later saw Romulos inside the 69th Infantry Battalion (IB), Philippine Army headquarters in San Jose Matulid, Mexico, Pampanga. In their search at the same headquarters, Romulos' wife said she saw one of Romulos's abductors inside the camp. But they did not find Romulos and had not seen him again despite countless days of searching. Romulos has been missing for ten months.

The same scene was repeated in many other places. Among the most recent was on 28 April 2007, in a public place in Quezon City: Jonas Burgos was having his lunch at a restaurant inside the Ever Gotesco mall when four armed men accosted him. He was forcibly taken out of the mall, pushed inside a vehicle and whisked away. Jonas is an agriculturist and activist who had been helping farmers in Bulacan. The plate number of the vehicle used in Jonas's abduction was traced to an impounded vehicle inside the 56th Infantry Battalion of the Philippine Army (IBPA) in Bulacan. Jonas has been missing for five months.

Romulos Robiños and Jonas Burgos are only two of 184 who are victims of enforced disappearance since Mrs. Gloria Macapagal-Arroyo assumed power in 2001. They are the "desaparecidos," those who were abducted and kept hidden by suspected soldiers, police and their agents, allegedly in the name of counter-insurgency and the US and Philippine governments' "global war against terror."

Families of *desaparecidos* are victims, too. They are subjected to psychological torture as they worry from day to day about the fate of their loved ones. There is no closure for families of desaparecidos, only an endless search. The disappearance also affects their livelihood and put their lives at risk.

The tragedy of a loved one's disappearance is the same for any person -whether in the Philippines, Indonesia, Kosovo, Honduras, Turkey, Guatemala, Nigeria or Afghanistan.

In 2005 alone, the United Nations Working Group on Enforced or Involuntary Disappearance (WGEID) has re-

ceived 50,000 cases from 90 countries. It said that "anti-terrorist activities are being used by an increasing number of States as an excuse for not respecting human rights, especially protection of all persons from disappearance."

Very few States have created a specific criminal offence of enforced disappearance and only 61 countries have signed the International Convention on the Protection of All Persons from Enforced Disappearance. The Arroyo government did not sign the convention despite vigorous calls by the UN.

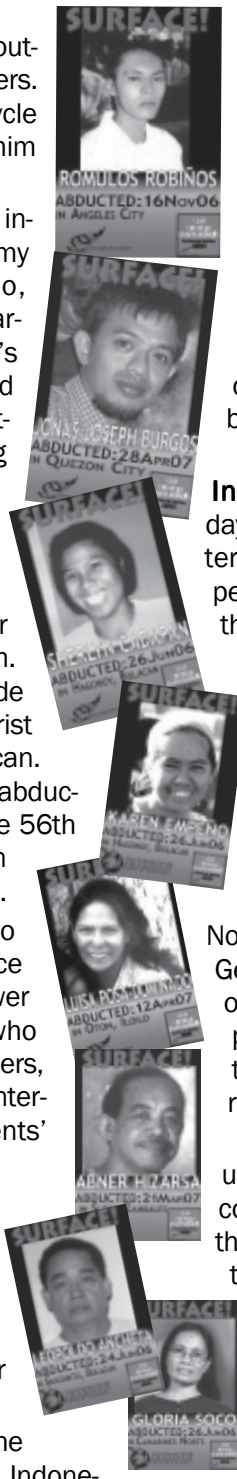
On **August 30**, the world commemorates the **International Day of the Disappeared**. This day is an occasion to give tribute to victims of state terrorism all over the world, remember the disappeared, and hold the perpetrators accountable for their crimes.

The tragedy that befell the Robiños, Burgos and many other families was not fate but the desired result of the implementation of a policy of the Arroyo regime, as it is confronted with political and economic crisis, fearful of social change and afraid that it will be ousted by people power.

As long as Mrs. Arroyo and her minions like Norberto Gonzales, Eduardo Ermita, Raul Gonzales, Gen. Hermogenes Esperon and other implementors of Oplan Bantay Laya and the "War of Terror" are in power, the threat of enforced disappearance, extrajudicial killing and other violations of our human rights will remain dangling above our heads.

Our silence or indifference today will not keep us safe in the days to come, as anyone may become a victim of enforced disappearance unless the Arroyo regime is stopped. It is time for all of us to stand for justice with the rest of our countrymen and women and defy Arroyo's undeclared martial law.

Their search for the truth may expose them to even greater danger, yet families and friends of disappeared persons continue to exhibit courage and commitment to collectively fight for justice. This serves as an inspiration to other victims of injustice and more citizens to understand state terrorism and enforced disappearance, and resist until no one is disappeared again. **FHR**



tuted in Mexico in 1847 and is found in Articles 103 and 107 of the Mexican Constitution.

Although the 1987 Philippine Constitution did not expressly provide for the writ of amparo, the Supreme Court, in issuing the said rule, invoked its constitutional prerogative “to promulgate rules concerning the protection and enforcement of constitutional rights.”

Section 1 of the rule on the writ of amparo states that a petition for the writ may be availed of by anyone “whose right to life, liberty and security is violated or threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity.”

The same section specifically states that the writ “shall cover extralegal killings and enforced disappearances or threats thereof.”

Thus, activists under threat of assassination, summary execution, abduction, torture or physical assault from the military may ask the court to issue a writ of amparo to protect them from such atrocities. In fact, any violation or threat of violation of one’s right to life, liberty and security – including threats and acts of harassment – are covered by the remedy.

With regards to enforced disappearances, the writ of amparo overlaps and even extends the coverage of the writ of habeas corpus in that it includes *desaparecidos* whose custody is denied by the state. Thus, unlike habeas corpus petitions that are usually dismissed on the basis of the state’s blanket denial of custody, the writ of amparo requires authorities to employ “extraordinary diligence” in determining the whereabouts of a missing person and allows the courts to issue orders to inspect facilities and produce information needed to establish the victim’s whereabouts.

The protection given by the writ also covers those threatened to be deprived of their liberty through illegal arrest, “invitations” to camps, abductions or other means of arbitrary detention.

Petitions for the writ require no docket fees and may be filed any time in a regional trial court, the Supreme Court, Court of Appeals, Sandiganbayan or any justice of such courts. Aside from

the aggrieved party, those who may petition for the writ would be their immediate family members, relatives or concerned citizens or organizations.

Once served the writ, respondents are required within 72 hours to file a verified answer, complete with supporting affidavits, containing their legal defenses as to why they did not violate or threaten to violate the aggrieved party’s right to life, liberty or security through any act or omission.

Moreover, a general denial of the allegations in the petition is not allowed. Rather, respondents have to indicate the steps they have taken to determine the fate of the aggrieved party including all relevant information on the said threat, act or omission. They should also show efforts to verify the identity of the aggrieved party, recover and preserve evidence, identify witnesses and obtain statements from them, determine the details of the death or disappearance as well as any pattern or practice that may have caused such, identify and apprehend those involved, and bring the suspected offenders before a competent court.

It is worth noting that aside from mandating extraordinary diligence, the writ prohibits government officials from invoking the presumption of regularity in the performance of their duties to evade responsibility or liability.

Under the writ, motions commonly used by the military and police to delay or complicate habeas corpus petitions or other human rights cases – motions to dismiss, motions for extension or postponement, motions for a bill of particulars, among others – are prohibited.

Failure by respondents to file a verified answer will result in an *ex parte* hearing of the petition. Summary hearings shall be held daily and the court shall render a judgment 10 days after the petition is submitted for decision.

While the petition is being heard, the court may issue the following reliefs:

- *Temporary Protection Order (TPO)* – gives the petitioner, aggrieved party and any member of the immediate family or officer of an organization protection through a government agency or accredited person or private institution;
- *Inspection Order (IO)* – orders the inspecting, measuring, surveying, or photographing of a designated land, property or any relevant object or operation thereon;
- *Production Order (PO)* – orders the production, inspection, copying or photographing of any relevant written material, photograph, object, or digital or electronic information;
- *Witness Protection Order (WPO)* - refers the witnesses



to the Department of Justice for admission to the Witness Protection Program. The witnesses may also be referred to other government agencies or to accredited persons or private institutions for their safety.

If the motion for an IO or PO is opposed on the ground of national security or of the privileged nature of the information, the court, justice or judge may conduct a hearing in chambers to determine the merit of the opposition.

The rule of amparo was crafted primarily to prevent the further violation of the aggrieved party's rights. It is not meant to replace nor preclude the filing of any criminal, civil or administrative case stemming from the violation or threat of violation of such rights.

Looks good. But will it work?

While human rights advocates generally laud the Supreme Court's bold and innovative move, there are well-founded doubts as to its impact on the killings and abductions and the impunity that accompanies such wholesale violations of human rights.

On the same day that the Supreme Court promulgated the new writ, Pres. Gloria Macapagal-Arroyo issued Administrative Order (AO) 197 ordering the Department of National Defense and the Armed Forces of the Philippines to draft legislation "for safeguards against disclosure of military secrets and undue interference in military operations inimical to national security."

Lawyer Neri Colmenares, spokesperson of the Councils for the Defense of Liberties, says AO 197 could be part of government's strategy to get around the writ of amparo.

For its part, Karapatan says the approval of the writ might come to naught with the fast tracking of the government's counter-insurgency operations. The President recently set 2010 as the deadline for the AFP to "crush" the CPP-NPA-NDFP. As far as state security forces are concerned, targets include Leftist organizations and their members working within the legal system.

What may complicate matters is the writ of amparo's inclusion of acts committed not only by state security forces and other public officials but also by private individuals or entities. Says Colmenares: "Expanding the writ's coverage to include alleged crimes committed by private individuals or entities misses the point, since that is not the problem that the writ intends to solve."

He explains: "The Rules of Court is already equipped to deal with these crimes. The real problem rather, is in

regard to the impunity with which extra judicial killings, enforced disappearances and other human rights violations are carried out by suspected state security forces who hide behind various mechanisms to preempt investigation and prosecution – such as claims to confidentiality, national security, executive privilege, the principle of presumption of regularity or just plain protection provided by top officials – rendering the ordinary rules of court and even the judiciary ineffective in intervening to at least spur serious investigation and prosecution."

He points out that a number of Latin American countries have limited their amparos to acts or omissions of public officials since, after all, the writ was generally intended not

against common crimes of private citizens but acts of the State.

Colmenares feel that the Philippine amparo's expanded coverage might dilute the main intent of the writ as recourse against human rights abuses by the state, the remedy of which cannot be availed of under the current rules of court. It is even possible, he says, that the AFP will file hundreds of amparos against the NPA just to confuse the issue and render the writ ineffective.

Another possible complication is the hierarchy of petitioners expressed in the rule, which may hinder human rights organizations from acting swiftly on urgent cases where no family member or relative is willing to file a petition out of fear.

Concludes Colmenares: "The entire process is of course subject to the vagaries of the justice system such as whether or not a judge is corrupt, biased in favor of government, can withstand threats and pressure from powerful respondents, and whether the judiciary can assert itself should the military for example disregard its orders."

Whatever the outcome, Colmenares believes that the writ can only be effective as long as there is active participation of the victims, their families and human rights advocates in the quest for justice.

Despite such potential problems, Karapatan is challenging the courts to "make the remedy work in the dispensation of justice" and has vowed to help file petitions for the writ on the cases of the two missing UP students Karen Empeño and Sherlyn Cadapan as well as missing activist Jonas Burgos. **FHR**

“...the approval of the writ might come to naught with the fast-tracking of the government's counter-insurgency operations...”

SECRET DETENTIONS AND RENDITIONS: corroding human rights

by Ruth Cervantes

From Abu Ghraib to Guantanamo, prisoners are being denied justice by the United States government and other powerful governments.

On suspicion of involvement in terrorist groups or activities, over a hundred people have been abducted, illegally transferred and tortured in 'ghost prisons' under the US government's so-called High-Value Detainee (HVD) program.

In his 6 September 2006 speech, President Bush lauded the program as a policy that "has been, and remains, one of the most vital tools in our war against the terrorists." Bush also acknowledged that there was an "alternative set of procedures" employed in the interrogation of terror suspects.

Such alternative set of procedures is understood to be a reference to the CIA's "enhanced interrogation techniques" used to interrogate several other HVDs. In the words of an intelligence source of a European investigating team, "We'll only give them up (HVDs) to the Department of Defense once we've got everything we can out of them."

Some terror suspects are subsequently released but not without going through the HVD program.

Collusion of US and EU governments

Media allegations that the US intelligence agency ran secret jails abroad for terror suspects sparked a series of investigations. On 8 June 2007, Swiss senator Dick Marty made public his second report entitled "Secret detentions and illegal transfers of detainees involving Council of Europe member states."

It was a follow-up to his report to the Council of Europe last year that said 14 European governments colluded with the CIA over the transport of terror suspects across the globe for interrogation - a practice known as "extraordinary rendition." It was also last year when European parliament investigators said the CIA had carried out more than 1,000 undeclared flights over European territory since 2001.

Marty says "There is now enough evidence to state that secret detention facilities run by the CIA did exist in Europe from 2003 to 2005, in particular in Poland and Romania."

The report concluded that the secret detention facilities in Europe were run directly and exclusively by the CIA.

Marty, who serves as Rapporteur for the Committee on Legal Affairs and Human Rights of the Council of Europe, said: "We believe we have shown that the CIA committed a whole series of illegal acts in Europe by abducting individuals, detaining them in secret locations and subjecting them to interrogation techniques tantamount to torture."

Marty said he hopes that his report on extraordinary rendition "will catalyse a renewed apprecia-

Extraordinarily rendered

Muhammad Bashmilah, Salah Ali Qaru and Muhammad al-Assad, three Yemeni men who were abducted and later released, told Amnesty International (AI) that they were held in at least four secret US-run facilities and that they were mistreated.

Khaled el-Masri, a German citizen was abducted from Macedonia in December 2003 and eventually flown to Afghanistan. There he was held in solitary confinement for four months and allegedly subjected to ill-treatment, while US agents interrogated him. The Washington Post has reported that eventually, the CIA concluded they had simply made a mistake, and Mr. Masri was dumped close to where he was abducted, to find his way home.

Syrian-born **Maher Arar**, 34, was heading home to Canada after a family holiday in Tunisia when he was picked up by US immigration in September 2002 as he passed through New York's JFK airport. After days of questioning, he says he was shackled, bound, and flown to Syria. Mr. Arar, who was eventually released, told the news network BBC that he was tortured during his 10 month detention.

Abu Omar, a man who was abducted in a busy Milan street in 2003 and flown to Egypt where he remains in detention, alleges that he has been tortured in detention, including being hung upside down and having electric shocks applied to his testicles.

In 2006, Italian prosecutors asked for the indictment of

continued on next page...

tion of the legal and moral quagmire into which we have collectively sunk as a result of the US-led 'war on terror.'"

"I hope I have spurred right-minded Americans and Europeans alike into realising that our common values, in tandem with our common security, depend on our uniting to end the abusive practices inherent in US policies like the 'High-Value Detainee' programme," he said.

Corroding human rights protection worldwide

Under its so-called war against terror, the US government established the secret detention system referred to as "black sites" in the wake of the 11 September 2001 attacks.

On 2 November 2005, the Washington Post first reported the existence of a hidden global internment network that "is a central element in the CIA's unconventional war on terrorism."

The US says it is at war against terror, so criminal law does not apply and nor do the laws of combat, such as the Geneva Conventions.

The policy pursued by the current US Administration results in gross human rights violations and corrodes the protection on human rights, according to human rights groups.

According to Amnesty International (AI), "rendition" usually involves multiple human rights violations, including abduction, arbitrary arrest and detention and unlawful transfer without due process of law. It also violates a number of other human rights safeguards; for example, victims of rendition have no possibility

of challenging their detention, or the arbitrary decision to transfer them to another country.

Rendition prisoners are cut off from the outside world and are completely in the power of their captors, without access to lawyers, families or doctors. They are often kept in prolonged arbitrary detention without charge or trial. The secrecy of their detention allow governments to evade accountability.

Terrorism for terrorism gambit

"States are obliged to take lawful measures to protect people from terrorist attacks. Rendition and secret detention undermine such measures by restricting the ability of states to bring to justice those responsible for acts of terrorism. Supporting activities designed to evade public scrutiny weakens the rule of law, which is the foundation for genuine security," AI said in a public statement dated 22 June 2007.

"When adopting counter-terrorism measures, governments must respect their international law obligations," says AI in its Q&A on "rendition." (<http://web.amnesty.org/library/index/engpol300032006>)



A US military officer walks past a prisoner at the Guantanamo Bay camp in Cuba. Photo from <http://news.xinhuanet.com>.

AI said the prohibition of torture and ill-treatment is absolute under international law and applies in all circumstances, with no exceptions of any kind, and cannot be suspended even in times of war or public emergency.

Also, under the non-refoulement principle in international law, states have the obligation not to transfer any person to a country where their lives or freedoms could be threatened.

The practice of extraordinary rendition is likewise an act of contempt by the US government on the

rest of the world where their unlawful acts are being committed in the name of anti-terrorism. The US is committing abuses that are prohibited in its own soil.

Ever the global bully, the US systematically refuses to account for its crimes and place itself under the jurisdiction of the International Criminal Court (ICC) while imposing its jurisdiction over other countries.

The foregoing will not solve the problem of terrorism as it is terrorism in itself. The threat from global terrorism does not justify measures such as rendition, as existing international law provides states with an adequate and sophisticated framework to respond to very serious threats.

Governments who allow themselves to be used in the global "war on terror" and are committing acts of terrorism against their citizens are breeding terrorism in the process. **FHR**

Extraordinarily Rendered...

26 US citizens, 25 of whom are suspected CIA operatives reportedly involved in the abduction and rendition of Mr. Omar. Nine operatives of the Italian security service, SISMI would also be indicted.

Binyam Mohammed was an Ethiopian-born asylum-seeker who was given leave by the British government to remain in the UK since 1994 while his case was resolved. Binyam was arrested while traveling in Pakistan in April 2002 on a visa violation and turned over to the US authorities.

On 21 July 2002 Binyam was brought to Morocco, allegedly on a CIA plane, where he was held and tortured for 18 months. He was transferred to the Dark Prison in Kabul in January 2004 and was later taken to Bagram Air Force Base in Afghanistan, and finally to Guantánamo Bay in September 2004, where he remains in detention.

He was among the detainees who went on a hunger strike to protest prison conditions and demand judicial review.

Sources:

www.reprieve.org.uk; www.amnesty.org; news.bbc.co.uk

Anti-war, pro-impeachment rally set in Washington on 15 September

WASHINGTON, D.C. – As the U.S. Congress prepares to debate and vote on the question of war funding for the Iraq war this mid-September, a series of rallies have been planned in the U.S. capital to call for an end to the war and for the impeachment of US President George W. Bush.

A big rally on 15 September will serve as a kick-off for the series of anti-war mobilizations called the “Days of Action” to be held until 21 September.

The rally is shaping up as a major showdown between pro and anti-war groups. It will be held at the time General David H. Petraeus, who commands the Multi-National Force-Iraq, makes his report to Congress which will take up the Bush Administration’s proposed \$100 billion plan to prolong the Iraq war.

MAS Freedom (MASF), the civic and human rights advocacy entity of the Muslim American Society (MAS) and the A.N.S.W.E.R. Coalition is calling on tens of thousands of their fellow Americans to come to Washington on September 15 to attend its “End the War” march and rally.

The “End the War” march and rally will fall on the third day of Ramadan (the Muslim month of fasting). MAS Freedom is planning a massive Iftar (the breaking of the fast) that evening in Lafayette Park across the White House.

“We will break our fast with dates and water, feed the homeless and hungry, and pray for the homeless and hungry in the USA, Gaza, Iraq, South Asia, Africa, and throughout the world who are in need of bread, not bombs,” stated MAS Freedom Executive Director, Mahdi Bray.

Bray added, “It is most appropriate that during the blessed month of Ramadan, we contemplate on the Divine by standing for justice against occupation and oppression, and that is what this war is all about. We call upon the Muslim community and all people of conscience to join us in fasting and prayer in Washington, D.C. on September 15.”

Representatives from Veterans for Peace (VFP), Iraq Veterans Against the War (IVAW), Muslim American Society Freedom Foundation, National Council of Arab Americans, CODEPINK, Grassroots America, Democracy Rising, Howard University student leaders, ImpeachBush.org, National Lawyers Guild, ANSWER Coalition and others have come together to plan the powerful mobilization at this critical moment to bring the war to an end.

The 15 September rally will begin at 12 noon at the White House, followed by a march to the Capitol. Joining the march are war veterans from Iraq

Former U.S. Attorney General Ramsey Clark, ImpeachBush.org and hundreds of other impeachment organizations are mobilizing with the anti-war movement.

“Each and every one of us must do all that we can to support the major Peace/Impeachment demonstration in Washington, DC on September 15, 2007, backed by more than a million votes for impeachment and accelerating,” Clark said in a message.

More than 929,000 have voted to impeach Bush at ImpeachBush.org and it is said that more are pouring in by the hour.

Clark said, “You can be one in a million demanding the impeachment of the Bush/Cheney cabal if you act fast... There are only six weeks left before the major Peace and Impeachment rally on September 15, 2007 in Washington. We intend to reach the first million by then.” **(ANSWER report) FHR**



Six medical workers unjustly imprisoned in Libya gain freedom

GENEVA – Five Bulgarian nurses and a Palestinian-born doctor who were imprisoned in Libya for allegedly infecting children with HIV have been released on 24 July 2007 and have returned to Bulgaria.

Nurses Christiana Vulcheva, Nassya Nenova, Valentina Siropulo, Valya Chervenashka and Snejana Dimitrova and doctor Ashraf Alhajouj, who served eight years of the life sentences they received, had always maintained they were innocent.

At least one other Bulgarian, Zdravko Georgiev, Christiana's husband who was also detained and accused although he did not work in the same hospital, also returned home with the group.

All six were pardoned on their arrival by Bulgarian President Georgi Parvanov. The Palestinian doctor, Ashraf Alhajouj, was granted Bulgarian citizenship.

International human rights organizations that monitored the case and launched a campaign for the freedom of the six, such as the Bulgarian Helsinki Committee (BHC) and the Organisation Mondiale Contre la Torture (OMCT), expressed happiness at the development. "We wish to thank all of the individuals and organizations that have taken action. No further action is currently required on your part concerning this case," the OMCT said in a follow-up report.

In a BBC report (news.bbc.co.uk), President Parvanov said, "The dramatic case with the sentenced innocent Bulgarian citizens is at its end. We are still sympathetic with the other tragedy - the one of the infected Libyan children and their families."

In the same report, the release was reportedly made possible by a deal struck in Tripoli on improving Libya-EU ties, following years of negotiations. It said that "the fami-



The doctor and nurses have spent the last seven years in custody. Photo courtesy of AFP.

lies of the infected children reportedly agreed last week to a compensation deal worth \$1M (£500,000) per child, channeled through Gaddafi Foundation, a charity run by Seif al-Islam, the Libyan leader's son."

The six medical workers had been in prison since 1999 and under sentence of death since 2004, following unfair trials, for allegedly infecting 393 children with HIV in the Al-Fateh Pediatric Hospital in Benghazi, Libya.

The BBC reported that on 9 February 1999, the six were arrested

with 70 health professionals from Egypt, Hungary, the Philippines and Poland after the virus epidemic. All were released except the six who were charged and were first sentenced to death by firing squad in May 2004.

The death sentence was overturned on 25 December 2005 by the Supreme Court that also ordered for a retrial on 11 May 2006 at a criminal court in Benghazi, concluding with the death sentences on 19 December of the same year which were confirmed by the Supreme Court. However, the Supreme Council of Judicial Authorities re-examined the case and reportedly decided on the commutation of the death sentences.

The six medical workers have complained that during the initial stage of detention they were subjected to torture and inhuman treatment.

Furthermore, they were at first detained for about 10 months without having access to their families. They were allowed access to a defense lawyer only after trial proceedings began. **(OMCT report) FHR**

That's right. We need people who want to get involved in the worthiest cause there is -- human rights.

At a time when human life has become so cheap.

When the people's civil, political and democratic rights are being sacrificed at the altar of elite politics, corporate greed, globalization and anti-terrorism.

We need people who will stand up and say, "That's not right" and do something about it.

Give us a call at the Karapatan Alliance for the Advancement of People's Rights, telephone nos. 4342837, 4354146.



**We
need
volunteers!**

Worldwide rallies cry: free Joma Sison!

Protests calling for the release of arrested Filipino revolutionary leader Jose Maria Sison have deluged the embassy of The Netherlands government in the Philippines and across the globe late this August and in early September.

Sison was arrested 28 August when he went to the Dutch police station upon being summoned supposedly in connection with the assassination attempt on him. On the same day, Dutch police in plainclothes raided Sison's home, the National Democratic Front of the Philippines (NDFP) office and the homes of eight other members and staff of the NDF in Utrecht, The Netherlands. Sison had been in exile in The Netherlands since 1986.

Sison was being charged in The Netherlands of 'inciting to murder,' for allegedly ordering the killing of former ranking officials of the Communist Party of the Philippines (CPP) Romulo Kintanar in 2003, and Arturo Tabara and his son-in-law Stephen Ong, in 2004.

International Support

Dutch and Filipino supporters led by the International Committee to Defend the Rights of Jose Maria Sison (Committee Defend) and the International League of Peoples' Struggles (ILPS) held demonstrations in the Philippines, The Netherlands, New York and Los Angeles cities in the U.S., Hong Kong, Korea, Taiwan and in Europe. Various organizations in the Philippines and around the world are gearing for more protests and a signature campaign to demand the immediate release of Sison.

In a press statement, Fidel V. Agcaoili, chairman of the NDFP-Monitoring Committee said "Prof. Jose Maria Sison is not a criminal. He is a patriot and an exceptional freedom fighter of the Filipino working class and people!"

"There is an obvious conspiracy by the Philippine and Dutch governments to persecute Prof. Sison politically" said Agcaoili. "This is very evident with the resurrection of trumped-up murder charges against him by Dutch authorities courtesy of the Government of the Republic of the Philippines."

The charge was included in the rebellion case filed against Sison and 50 other co-accused, which the Philippine Supreme Court dismissed in June this year.

Apart from the assassination on Tabara and



FROM MANILA TO THE NETHERLANDS: Militants trooped to Dutch consulates all over the world to demand Prof. Sison's release. Clockwise from top left - Manila, Indonesia, Brazil, The Netherlands

Kintanar, Dutch authorities also want Sison, who was former CPP Chairperson, to account for the victims of communist purges in the 1980s, at the time when Sison was in solitary confinement.

Deception

According to NDFP Chairperson Luis Jalandoni, "The Dutch Police called up Prof. Sison to invite him to the police station because according to them there were new developments on the complaint that he had filed in 2001."

Sison filed a complaint regarding an assassination plot on him by the [Joseph] Estrada regime. Sison even brought with him some documents pertinent to the complaint, said Jalandoni.

"But when he arrived at the police station, he was separated from his three companions that included his lawyer. They learned later that Prof. Sison had been whisked away to a jail complex in Scheveningen on the patently spurious charge of ordering the murder of Kintanar and Tabara," recounts Jalandoni.

Sison has been detained incommunicado for more than two weeks at the National Penitentiary in Scheveningen, a prison complex once used by the Nazis to detain Dutch resistance fighters.

Juliet de Lima, Sison's wife, said her husband needs regular medical attention because of his heart ailment but she lamented that Dutch authorities had earlier prevented her to visit and bring him his medicine.

'Conspiracy of persecution'

Barely a day after denying complicity in the arrest of Sison, Malacañang admitted that it helped the Dutch government in indicting Sison by providing "evidence that will incriminate the former CPP chairperson."

In media interviews, National Security Adviser (NSA) Norberto Gonzales, said he is elated that the evidence he passed on to the Dutch government is being used by the latter against Sison.

The Philippine National Police (PNP) said they supplied evidence to the International Police (Interpol) for the arrest of Sison. "It means our evidence against Sison is strong because the Dutch government accepted it," said PNP Director-General Oscar Calderon.

In the Philippines, Sison has been repeatedly cleared of criminal charges. He was cleared of rebellion and subversion charges in 1986. The charge of subversion that had been trumped up in 1988 was nullified in 1992. In 1994, the charge of multiple murders arising from the 1971 Plaza Miranda bombing was dismissed by the Manila prosecutors as something based on speculation. In 1998 the Department of Justice issued a certification that there were no pending criminal charges against Sison.

Sison said, "the Arroyo regime started to fabricate charges of rebellion and common crimes against me...but the Supreme Court has rendered null and void the identical false allegations of rebellion..."

Ramsey Clark offers help

Former US Attorney General and world-renowned human rights lawyer Ramsey Clark expressed disapproval and deep concern over the recent arrest of Sison.

In a meeting with the New York Committee for Human Rights in the Philippines (NYCHRP) in his Manhattan home, Clark pledged to assist Joma by offering to join his international defense team of lawyers



Former US Attorney General Ramsey Clark pledges to defend Sison.

headed by Jan Fermon.

Clark said, "The Dutch can't determine the facts." He explained, "the Dutch can't investigate in the Philippines. They can only rely on what the [Arroyo]

turn to next page...

WHAT THEY SAY ABOUT JOMA'S ARREST...



"This is a major breakthrough in the quest for peace and justice shared by millions of Filipinos. This administration seeks an end to decades of armed struggle that has kept many rural areas inaccessible and thus, unprogressive."

Gloria Macapagal-Arroyo
President,
Government of the
Republic of the Philippines

"The arrest of Joma only raises more questions than answers. Whatever the reasons, I urge those who have custody of Joma to respect his human rights. I fear that the arrest of Joma will be used by the Arroyo administration to engage in witch hunt and persecution of human rights activists and progressive groups. Patriots should not be labeled as terrorists."

Ana Consuelo "Jamby" Madrigal
Senator, Government of the
Republic of the Philippines

"Sison's arrest is a triumph of justice."

Lt. Col. Bartolome Bacarro
Philippine military spokesman

WHAT THEY SAY ABOUT JOMA'S ARREST...

Everyone who is concerned about peace and freedom has to be greatly distressed over the arrest of Joma Sison.....Sison is a great spirit that the world needs to know about, a great voice that the world needs to hear. The demonization [of Sison] will destroy us if we permit it to continue.

Ramsey Clark

Former US Attorney General and international human rights lawyer

"The charges against Prof. Sison for crimes that were committed here in the country, given that the Philippines does not have an extradition treaty with the Dutch government, must be reviewed carefully lest it proves to be another attack on progressive forces.

If we are really to put an end to the rebellion, then the government needs to think out of the box and explore ways of balancing a strategy that will control the encounters in the countryside and aggressive negotiations."

Francis "Kiko" Pangilinan

Senator, Government of the Republic of the Philippines

"This development has dire and far reaching repercussions on the peace process in the Philippines.

The move to arrest Joma and the subsequent raids and interrogation of NDF personnel are done with the knowledge and prodding of the Philippine government. We condemn both the Dutch and Philippine government for these latest attacks on the civil liberties of progressives based in Europe."

BAYAN

(Bagong Alyansang Makabayan or New Patriotic Alliance



government tells them, and what the [Arroyo] government wants is persecution for Jose Maria Sison."

Clark visited Sison in the Netherlands back in 2005 and has been an ardent supporter of the campaign to have Sison de-listed from the US and European Union terrorist lists.

Earlier this year, the European Union's second highest court annulled a decision by the bloc to put Sison on its terror list.

On 11 July 2007, the European Court of First Instance (ECFI) said that Jose Maria Sison should be taken off the EU list because there was failure to respect the right to defense when the 27-nation bloc decided to blacklist him.

Released

The court ordered Sison's release after his trial in The Hague on 13 September, citing insufficient evidence to support the two murder charges filed against him.

After his release, the revolutionary leader in exile issued a statement thanking the Dutch, Filipino and other peoples for their solidarity and support. He also said, "I am deeply pleased and thankful that the Rechtsbank has decided to release me from detention. You cannot imagine how happy I am. It is extremely painful and humiliating to be subjected to solitary confinement and tough interrogation under overheated lamps. The ordeal is acute because I am innocent of the false and politically-motivated charge leveled against me."

Sison said "I have nothing to do with any murder. This is against my moral and political principles. I am a teacher by profession who loves the exchange of ideas towards common understanding and practical cooperation. I have long devoted myself to the advocacy of human rights and work for a just peace in the Philippines."

Consequent to the release order of the Rechtsbank, Sison said he has gained some confidence in the Dutch legal system. "I have the opportunity to prove my innocence and continue to benefit from fair play. I feel somehow vindicated in choosing The Netherlands as my place of refuge from persecution in the Philippines."

He says he will stay in the Netherlands and conduct his legal defense and further clear his name. "I will continue to exercise my freedom to speak and other democratic rights. I will continue to work for national freedom, human rights, social justice and an enduring, because just, peace in the Philippines," says Sison. **FHR**

The trials of Jose Maria Sison

by Elmer A. Ordoñez

Reprinted with permission of author from his 09/08/07 Manila Times column

The arrest of Jose Maria “Joma” Sison in Netherlands recalls his capture in Pangasinan in 1976. We were in Montreal at the time, and we heard the dictator say that the “insurgency” was finished with Sison’s capture. Reports reached us that Sison was severely tortured and chained to his cot in solitary cell. A picture of his haggard and unshaven face reached the anti-martial law group and soon there were silk-screen posters made with that picture and the slogan, “You can imprison a revolutionary but not the revolution.”

Sison endured the unspeakable tortures and bartolina for 18 months (he was released along with others after EDSA by President Aquino). Out of his travails poured forth lines of poetry smuggled out of prison—recalling an earlier revolutionary Amado Hernandez who also wrote in his bartolina lines of poetry secretly brought out in slips of paper by his intrepid wife Atang de la Rama. In the case of Joma his beloved wife Julie de Lima was also imprisoned in another cell. From their rare moments of conjugal meetings was conceived and born a son, now a full-grown adult, as resolute as his parents in radical politics.

“Fragments of a Nightmare” is one of the prison poems that Joma wrote. His capture is rendered in the lines:

“The demons burst through the flimsy door,
Raise the din of bloodlust
And sicken the sudden light.
I am surrounded by armed demons
Prancing and manacled me.
I am wrenched from my beloved
And carried on frenzied wheels
Through the strange cold night.”

Dragged to the Palace for a meeting with the dictator, Sison remembered:

“I am brought to the center of hell
To the Devil and his high demons
For a ritual of flashbulbs.
The Devil waves away his minions
And we engage in a duel of words.
For a start, he talks of buying souls.
Repulsed, he shifts to setting a trap for fools and
the innocent
Repulsed again, he ends with a threat
That he will never see me again.”

After rebuffing the dictator who wanted to make a Faust of Sison, the prisoner was blindfolded and brought to “a sprawling fort, a certain compound” to a



JOMA FREED: Prof. Sison immediately returns to his office, comrades and revolutionary work. (Inquirer.net photo)

“cell of utter silence” to which he was “roughly plunged.” Sison wrote, “The demons want me to feel / Blind, lost, suffocating, helpless.” The weeks and months that followed were all types of torture worthy of the Inquisition. “The torture does not cease / But becomes worse a thousand times.” But through the pain and agony, “I keep on thinking of sea gulls / Frail and magical above the blue ocean / and doves in pairs so gentle / One partner so close to the other.”

With “only bedbugs, mosquitoes, ants / cockroaches, lizards, and spiders” as companions in his cell, he wrote: “I miss and yearn for my beloved / And think of her own fate / I long for my growing children; / I long for the honest company / of workers, peasants, and comrades./ I long for the people rising / And the wide open spaces of my country.”

Those who tend to demonize or caricature the revolutionary might try a fraction of what Sison went through and see if they could stay whole as Sison did in ten years of Marcos’ jail.

After 20 years of living in exile, devoted principally to writing books and lecturing about the people’s struggle for genuine social change, Sison is once again immobilized (but only physically) with his arrest. Once again he is in solitary in a Dutch version of Guantánamo, deprived of his basic rights as a prisoner in what we thought was a civilized and humane society. The US government that has long wanted him eliminated as

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ABRAKADABRA!

Atty. Joel Ruiz Butuyan

The abductors of Jonas Burgos declared *"Pulis kami!"* to the mall crowd who were startled by the abduction. With the two-word mantra, the criminals whisked Jonas away to be added to the statistics of *desaparecidos*. The criminals might as well have recited *"abrakadabra!"* and *"poof!"* Jonas Burgos disappeared in full public view in a Metro Manila mall.

The human rights group *Karapatan* has documented over 184 enforced disappearances on top of the 886 activists summarily executed since Gloria Macapagal Arroyo took office in 2001.

In all the abductions done in full public view, there is little doubt the dastardly criminals flaunted their *"abrakadabra!"* powers by reciting their mantra *"Pulis kami!"* to give their crime a veil of legitimacy and to shoo away would-be rescuers. In all these cases, the public stood silently aside because of the mistaken notion that if the accosting operatives are policemen, they have an indisputable authority to arrest anyone.

Contrary to this grave misconception, the rule is that policemen do not have an inherent authority to arrest by reason alone of their uniforms and guns. Their authority to arrest arises only when either of two exceptional circumstances are present: ONE, when the policemen have a warrant of arrest, and; TWO, when the policemen are personally in the presence of a person in the act of committing a crime.

Any policeman who takes any person into custody without either of the two exceptional circumstances is not making an arrest. He is in the act of committing a dastardly crime. He is the criminal.

It is true that the controversial new Anti-Terror law gives the police the power to detain a suspected terrorist for three days without an arrest warrant. But this type of a warrantless arrest requires a prior court-approved surveillance and a suspect who is committing the crime of terrorism that "creates widespread and extraordinary fear and panic among the populace." The victims of enforced disappearances and the would-be victims addressed by this article do not rightfully belong under this category.

When the *"Pulis kami!"* abductors of Jonas Burgos accosted him, they had no warrant of arrest. Jonas was also not in the act of committing a crime. He was only enjoying a meal in a restaurant, for heaven's sake. If taking a meal is a crime, then policemen should rush to Congress and make a mass



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arrest of all those pork-bellied Congressmen.

What are the rights of the would-be victim and would-be rescuers when they find themselves in the midst of *"Pulis kami!"* operatives — impostors or genuine — who have possibly commenced the commission of the multiple crimes of kidnapping/arbitrary detention, serious physical injuries and even murder?

First, the law gives the would-be victim the right to invoke self-defense in resisting the abduction. He can use whatever force he can muster and whatever weapon he can lay his hands on to defend himself even if in the process he inflicts fatal injuries to his would-be abductors.

Second, the law gives members of the public the right to come to the rescue of the would-be victim under the principle of "defense of stranger." If in the process of defending the would-be victim the rescuers inflict injuries — or even death if justified by the circumstances — upon the criminals, any lawyer worth his *gabardine* pants can have the rescuers acquitted in whatever criminal case that is filed. Hence, if the Ever Gotesco mall guards came to Jonas' defense — and in the process a shooting incident broke out between the mall guards and the abductors — the mall guards would be acquitted of homicide if the abductors were killed, even if they turn out to be police or military personnel. In such an incident, the abductors are the criminals.

Third, since the *"Pulis kami!"* operatives are in the act of committing a crime, any member of the public can effect a citizen's arrest on these rascals. In other words, it is a case of private citizens arresting police or military personnel (if they really turn out to be so) who are caught in the act of committing a crime.

It is true that these rights of "self-defense," "defense of stranger," and "citizen's arrest" are easier said than done. However, the world may be a little safer if would-be victims and members of the public are armed with the knowledge that they have options

other than freezing like a deer caught in the headlights when an unfolding abduction stares them in the eye. Given the right circumstances, a would-be victim or a lion-hearted spectator may have the opportunity of saving one precious life whose mother is spared of the heart-wrenching tragedy of weeping and sobbing for the rest of her life; deprived of the chance to even bury the cold and bruised cadaver of her disappeared son or daughter.

Given these rights, a would-be victim should scream and shout in protestation in order to alert the public of the on-going detention. Companions of the would-be victim, concerned spectators, and mall and establishment guards should get the names and the unit address of the accosting operatives. A scrupulous peace officer enforcing a legitimate arrest should know that he has nothing to fear when asked about his identity as, in fact, he is under a legal obligation to identify himself. On the other hand, an accosting operative who refuses to divulge even his identity justifies the would-be victim and would-be rescuers to have a well-grounded belief and to take a consequent course of action on the premise that the operative is a criminal. The companions of the would-be victim, concerned spectators, and guards can call the police hotline, television and radio stations, and obtain mobile phone camera shots of the accosting operatives and the car plates of their get away vehicles.

There is now an atmosphere of fear resulting from the unabated enforced disappearances and extra-judicial killings. Our police and military establishments officially deny that their ranks have anything to do with these despicable crimes. Given these facts, would-be victims and would-be rescuers are rightfully justified into suspecting that operatives unarmed with a warrant — and who attempt to accost any person doing an ordinary daily routine — are either civilian criminals or rogue cops who are out to perpetrate a crime. Victims and rescuers have the law on their side when they exercise the full force of their rights.

Now, if only the Filipino people exercise their “abracadabra” powers to make the criminals in this government disappear. But that’s another story. **FHR**

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Editor’s Note: The FREEDOM BAR is reserved for the advocates’ take on justice, peace and human rights issues. Materials may be sent to krptn_yahoo.com or karapatan.pid@gmail.com.

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violence, invasion or rebellion, cannot automatically suspend the privilege of the writ of habeas corpus and if suspended, the suspension applies “only to persons judicially charged for rebellion or offenses inherent in or directly connected with invasion”.

Thus, the general rule is that the writ, although a mere privilege, cannot be revoked. Thus in all cases, the abducted, the detained or those restrained of their liberties should be produced when the writ of *habeas corpus* is issued, except for those charged with rebellion but only when martial law has been declared.

How strong is the writ against abductions?

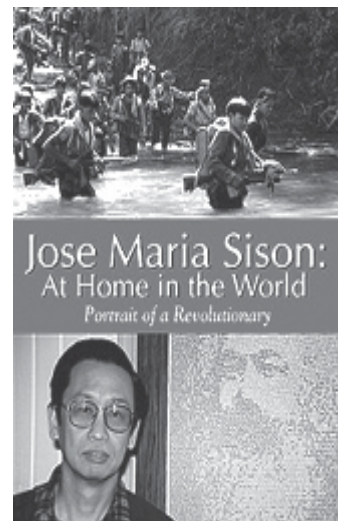
Our experience on the ground is that the effectiveness of the writ is still largely dependent on the good faith of the authorities (i.e. the military and police) to show the body. In practice, a mere denial of custody leaves the petition dead and the court helpless in imposing its order. As one Supreme Court justice rhetorically asked, “can a judge cite a general in contempt?” **FHR**

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“communist terrorist” has offered to assist the Dutch government prosecute Sison. No less than the ambassador has made US intervention patent. Need she be reminded that her country’s Founding Fathers were seen as terrorists by the British.

On the other, former US Attorney General Ramsey Clark has offered to help defend Sison.

Clark said to fellow Americans: “Sison is a great spirit that the world needs to know, a great voice that the world needs to hear. The demonization [of him] will destroy us if we permit it to continue.” He has kept faith with the libertarian ideals of the Founding Fathers. He called the Human Security Act of this country a copy of the US Patriot Act—seen universally as an instrument of state terror. **FHR**



The revolutionary is not a terrorist, says internationally acclaimed Filipino novelist Rosca of Sison, her book's subject. Photo from www.openhand.com

Supreme Court convenes summit on extrajudicial killings and disappearances

by Ruth Cervantes

A human rights summit initiated by the Supreme Court echoed the growing calls for President Gloria Macapagal-Arroyo to order a stop to political killings and for the enhancement of laws that would effectively render justice to victims of human rights atrocities.

The Supreme Court convened the two-day activity dubbed the “National Consultative Summit on Extrajudicial Killings and Forced Disappearances” on July 16 and 17 at the Manila Hotel to address the deteriorating state of human rights in the country.

Ironically, human rights watchdogs, cause-oriented organizations and interfaith groups – many of whose members are victims of extrajudicial killings and enforced disappearances – had to lobby hard on the eve of the event for them to be given a chance to participate.

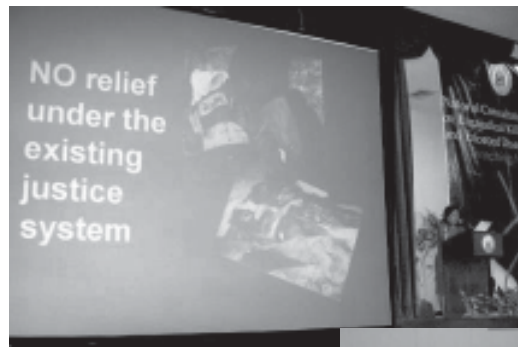
In his keynote address, Chief Justice Reynato Puno said the judiciary decided “to unsheathe its unused power to enact rules to protect the constitutional rights of our people, the first and foremost of which is the right to life itself.”

On the summit’s first day, each of the participants gave a 10-minute presentation of their analysis and solutions to the problem. Among the speakers were Karapatan Chairperson Dr. Edelina Dela Paz, Catholic Bishop Deogracias Iñiguez, Prof. Luis Teodoro who spoke on behalf of media, and Nilda Sevilla of FIND.

The representatives of the government were Commissioner Jose Melo of the Melo Commission, AFP Chief of Staff Hermogenes Esperon, Rep. Teddy-Boy Locsin, Justice Secretary Raul Gonzales, CHR Commissioner Lourdes Quisumbing and police chief Oscar Calderon.

Before some 300 summit participants, Dr. dela Paz said: “While we welcome this summit and we forwarded our recommendations on the rules and procedures of the court, still, the bottom line is unless the state policy Oplan Bantay Laya of the Arroyo regime is stopped, then there will be no substantial solutions and the extrajudicial executions and enforced disappearances will certainly continue.”

On the summit’s second day, the participants were divided into groups, each led by a SC justice and with representatives from the military, police, legislature, progressive groups and the international community.



KARAPATAN Chair Dr. Edelina dela Paz (top) presented the state of human rights in the country to the members of the Supreme Court and summit participants (top right). Various sectoral groups trooped to the summit (bottom right). Photos by KRA Guda (Pinoy Weekly) and arkibongbayan.org



All the groups acknowledged the importance of genuine peace negotiations as a means to solve the rash of extrajudicial killings and enforced disappearances that have claimed hundreds of lives and brought the Philippines heavy international scrutiny and criticism.

Political analysts say that the high court’s move to convene a human rights summit is an admission that there is an affront to the rule of law and that the failure of the country’s criminal justice system to provide succor to the victims of crimes against humanity forced their families and human rights groups to knock at the doors of the international community for intervention.

According to Prof. Bobby Tuazon of the Policy Study, Publication and Advocacy of the Center for People Empowerment and Governance (CenPEG) said “More petrifying to the magistrates, the victims and their kin have lost hope in the justice system precisely because the system – specifically many of its investigators and adjudicators – had been prejudicial to them.”

On a positive note, Tuazon said that this first step taken by the judiciary toward the search for justice and redress “is a good enough move that warrants a shove by all non-state institutions and organizations struggling for a just and humane society.” **FHR**

Methodist Church mark first death anniversary of martyred pastor Isaias Sta. Rosa

by Ruth Cervantes

MANILA - Candles were lit, flowers offered and scriptures exhorted at the Central United Methodist Church (UMC) in Manila to commemorate the first death anniversary of martyred pastor Isaias Sta. Rosa on 3 August.

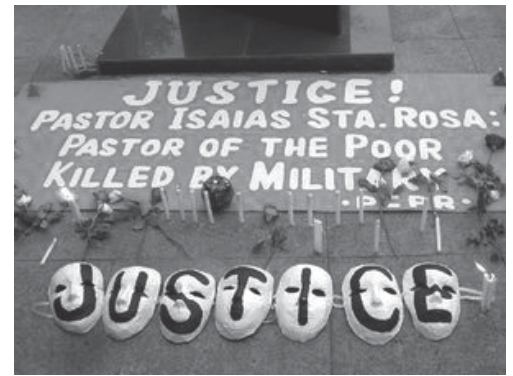
The memorial service to remember the life and service of Pastor Sta. Rosa was held at the church and was followed by a candle-lighting ceremony at the nearby Plaza Salamanca to protest the unresolved cases of extra-judicial killings and enforced disappearances under the Arroyo regime.

At the ceremony attended by some 60 people, UMC Bishop Solito Toquero said, "Justice may not be served today but justice will definitely prevail."

A tearful Jonathan Sta. Rosa, the pastor's younger brother said, "President Arroyo and her military are

responsible for my brother's death." He said that if the government will continue with this policy of extrajudicial killings, their family and others like them will continue to fight for justice.

Sta. Rosa, known as a "Pastor of the Poor," was slain last year by members of the Philippine Army's 19th Infantry Division. One of his assailants, who died beside him apparently from 'friendly fire', was identified as Pfc. Lordger Pastrana. Recovered from Pastrana's body was his identification card and a mission order dated July 11, 2006, issued by the same military unit and signed by Major Ernest Marc Rosal. **FHR**



Satur slams inclusion of party list solons in GMA's proposed amnesty

Deputy Minority Leader and Bayan Muna Rep. Satur Ocampo assailed National Security Adviser Norberto Gonzales and Presidential Adviser on the Peace Process Jesus Dureza for including progressive party list representatives in the coverage of Malacañang's proposed amnesty to communist rebels.

"It is malicious for Gonzales and Dureza to include progressive party list representatives in the coverage of the proposed amnesty program," Ocampo said. The proposal, according to the solon is consistent with the red-baiting tactics of Malacañang against progressives.

Ocampo pointed out that "Gonzales and Dureza should know that the Makati Regional Trial Court Branch 150 on July 10 junked the Palace-fabricated rebellion case against me and 50 co-accused." The dismissal came after the Supreme Court ordered the RTC on June 1 to dismiss the case.

Gonzales has owned responsibility for the preparation of the rebellion case as head of the Inter-Agency Legal Action Group (IALAG).

On 4 September 2007, Gonzales and Dureza claimed that "the amnesty could extend to leftist party-list representatives led by Satur Ocampo of the Bayan Muna party-list group as it cover the rebellion and other crimes relating to the pursuit of political beliefs."

Gonzales said that the amnesty would also cover the "legal fronts" of the Communist Party of the Philippines–New

People's Army–National Democratic Front. "When we say political beliefs, the amnesty we are talking about is limited to the CPP-NPA-NDF and derivatives," Gonzales said.

Ocampo also raised serious concern on the inclusion of so-called "legal fronts" in the amnesty program.

"Under the guise of a so-called amnesty proclamation, is Malacañang reviving the anti-subversion law?" Ocampo said.

In the first quarter of 2005, the Armed Forces of the Philippines released a PowerPoint presentation titled "Knowing the Enemy" and its Northern Luzon Command (NOLCOM) came up with a similar PowerPoint, both tagging progressive party lists and people's organizations as so-called "legal fronts" of the CPP.

As a result of tagging and vilification, more than 800 Filipinos were arbitrarily killed in the course of internal security operations.

Ocampo dismissed the proposed amnesty as a "counter-insurgency ploy in light of the government's declared goal to 'finish' by 2010 the Left insurgency through strategically defeating the New People's Army, its scuttling of the GRP-NDFP peace negotiations made worse by the arrest of chief political consultant Jose Ma. Sison and raids on the NDFFP International Office and the house of Louie Jalandoni, head of the NDFFP peace panel."

Ocampo stressed that "amnesty to be meaningful must form part of a comprehensive peace agreement and not a unilateral act of government in an ongoing armed conflict."

FHR

WHAT IS HABEAS CORPUS?

by Atty. Rex J. M. A. Fernandez

***Habeas corpus* is a very old remedy against unlawful deprivation or restraint of liberty. It is as a relief afforded by the court to an individual who has suffered the heavy hand of the sovereign or some other powerful person.**

The relief or the order issued by the court is called the writ of *habeas corpus*. The word writ is an old English word for an order that is written.

The words *habeas corpus* are Latin words. *Habeas* is the second person singular of the infinitive Latin word *habere*, which in English is “to have” while *corpus* is a noun in the nominative declension which means “body.”

In short, the writ of *habeas corpus* is a court order saying: “You have the body, present it to the Court.”

Why “the body” and not “the person”?

The court asks for the missing person’s body to signify that it is the physical body and not any of its manifestation, writings, or thoughts that is essential in this remedy and which has to be presented to the court. It also shows that the court does not distinguish if the missing person is alive or dead.

How important is *habeas corpus* in our litany of remedies?

The remedy of *habeas corpus* is so important because it is used to protect a person’s freedom and liberty. As aptly stated by an American hero, “Give me liberty or give me death.”

Such a remedy is important in the Philippines, especially under a regime where the people’s liberties and rights are expendable and play second fiddle to national security considerations. The increasing number of desaparecidos is evidence of the Arroyo regime’s dangerous national security mentality.

What is this deprivation of liberty in *habeas corpus*?

The Supreme Court has several times enunciated that the deprivation or restraint of liberty does not need actual physical restraint. It can be a moral or psychological circumstance wherein the person so deprived becomes so fearful that it effectively restrains a person of his or her liberty. A threat that one’s family will be killed if one escapes is already enough restraint of liberty to warrant a writ of *habeas corpus*.

Is the court strict on the form of the petition for a writ of *habeas corpus*?

No. It is enough that the allegations of restraint are there and the persons asked to produce the body are definite even if not named. Any defect in the petition is not a ground for the dismissal of the same.

However, requiring the petition to be filed in the court with the territorial jurisdiction of the place of custody makes *habeas corpus* cases difficult since experience shows that military abductors move their victims from one place to another. In essence this transferring is a way of perpetrating impunity.

Has this remedy been always available?

The writ of *habeas corpus* is an ornamental remedy and is more practiced in the breach especially when the state exercises its coercive powers. That is why it is called a privilege, something which is given but is not inherent, which means that it can be revoked or taken back.

The writ was suspended in the United States several times in the past. One of the more infamous incidents was the herding of Japanese-American into camps during the Second World War, where they were denied the remedy of *habeas corpus*.

After the World War II, the Philippine government suspended the privilege of the writ of *habeas corpus* twice – during the Quirino presidency and the martial law period under the Marcos dictatorship.

Pres. Gloria Macapagal-Arroyo also attempted to suspend this indirectly with her infamous Proclamation 1017 and has now diluted the privilege via the notorious Human Security Act.

What does the 1987 Constitution say on the privilege of the writ of *habeas corpus*?

Article VII, Section 18 of the Constitution declares in part that the declaration of martial law which can only be made when there is need to suppress lawless

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On the 111th year of the Cry of Pugadlawin

Call to fight for freedom rings louder

by Dee Ayroso

On August 22, 1896, Katipunan leaders Andres Bonifacio and his brother Procopio, Emilio Jacinto, Teodoro Plata, Aguedo del Rosario, Pio Valenzuela and some 500 Katipuneros arrived at the home of Juan A. Aquino, son of Melchora Aquino, or Tandang Sora, in Pugadlawin. News had spread that the secret society had been discovered by the Spanish authorities and many had been arrested in the ensuing crackdown on the revolutionaries.

Bonifacio had called for a meeting on 24 August in Balintawak, amidst reports that the *guardia civil* were on their tail. On 23 August, more than 1,000 people had assembled as more Katipuneros arrived. It was at this point that Bonifacio asked everyone assembled to tear their *cedulas* as a symbol of their resolve to fight the Spanish colonizers.

“*Mabuhay ang Pilipinas!* (Long live the Philippines!), the Katipuneros shouted with one voice, marking the Cry of Pugadlawin.

The following day, the leaders of the Katipunan finalized the plan to attack Intramuros in the midnight of 29 August. But even before the said date came, groups of revolutionaries had separate clashes with the *guardia civil*. On 27 August, Bonifacio came out with a manifesto rousing Filipinos everywhere to join in a simultaneous attack on all Spanish garrisons, offices, storage houses and other facilities. In the following days, Katipuneros in Luzon and Visayas, armed only with bolos and a few guns, launched assaults on the Spanish enemy, and spread the fire of the revolution throughout the archipelago.

Bonifacio and the 1896 revolutionaries struggled for the Filipino people’s right to self-determination which, as the Algiers Declaration¹ put it, is an “inprescriptible and unalienable right” of every people. “Every people has the right to break free from any colonial or foreign domination, whether direct or indirect, and from any racist regime,” states Article 6 of the Declaration.

Today, the Katipuneros’ call for freedom rings even louder as modern-day Filipinos are still shackled by worsening poverty and oppression not very different from that in Bonifacio’s time, under a government



which represents interests only of foreign powers and the local landlord-comprador elite. Like the preceding regimes, the Arroyo administration is ridden with graft and corruption and implements policies which favor transnational companies and foreign governments more than its own people. Officials of the regime continue the bureaucratic tradition of enriching themselves from selling the national patrimony, exacting exorbitant taxes while depriving the people of meaningful government services.

The worsening extrajudicial killings, enforced disappearance and other human rights violations in the six years under Arroyo reflects her government’s disregard for human rights and the desperate use of force to stay in power.

After 111 years, many Filipinos are still heeding Bonifacio’s call to join the fight against the oppressive system and work towards setting up a democratic government which respects human rights and is truly representative of the Filipino people. **FHR**

Sources :

History of the Filipino People,
Teodoro A. Agoncillo (Footnotes)

¹ *Universal Declaration of the Rights of the People to Self-Determination*, Algiers, 1976

JEEZUS, I ALMOST FORGOT, COMRADES MARIE & RUTH

E. San Juan, Jr.*

(Originally written in Filipino; translation provided by author)

While sipping what's believed to be miraculous water from the spring of the Virgin's refuge in Ephesus, while we stopped briefly in our travels in Turkey, I failed to appreciate thoroughly Lorena Santos' plea for the Arroyo regime to surface her father, Leo Velasco, forcibly "disappeared" by the secret agents of the Armed Forces of the Philippines....

While watching the dancing dervishes of Konya, a religious sect ordered by Kemal Ataturk not to politicize religion in order to advance the newly-founded secular state, Rumi's aphorism popped up: "If you are with everyone but me, you are with no one; if you are with no one but me, you are with everyone...."

Unavailing, the disappeareds remain "no show"—Jonas Burgos, Sherlyn Cadapan, Karen Empeño — how come, Rumi, even though you're here, no surfacing's allowed?

Drowned in TV trivia while snuggled into a hotel in Izmir, distracted by Richard Gere's kissing an Indian actress (does she look like Ruffa?), or by the orgies of Paris Hilton and Britney Spears, these spectacles banished the thought of the extra-judicial killing of Diosdado Fortuna, Ricardo Ramos, Lizelda Estorba-Cunado, and hundreds of victims of the Bush-Arroyo collusion....

Jeezus, I almost forgot Alice Claver, Juvy Magsino and Leima Fortu while the petty bourgeois crowd in Ankara fuzz over *Harry Potter & the Deathly Hallows* and the latest gossip over O. J. Simpson's potboiler *If I Did It...* Empathizing or definitely afflicted?

And in Antalya, schmoozing with Britney Spears and Catherine Zeta-Jones titillated by the belly-dancers' gyrations in rhythm with the lusty waves of the Mediterranean purged from consciousness are the sacrifices of Cathy Alcantara, Audie Lucero and many others who followed—corpses without names except for KARAPATAN's painstaking endeavor....

And in the shadow of the Blue Mosque in Istanbul, far from the mosaics of angels and saints in the shrouded caves of Cappadocia, I tried to adjust Rumi's riddle: If you are with Mario Auxilio or Eden Marcellana, and no one else, You are also with the entire community judging and destroying the fascist State....

Even if only with the presence of a single abused person, like Lourdes Rubrico, even though you've been seduced by the beguiling smile of the two Medusas on the marble pillars of the Cistern of Hagia Sophia, you'll be forever hounded by those throbbing memories, soaked with pain and sorrows suffered and endured—you'll be pursued by those widowed and orphaned wherever you roam, plunged in the ruins of the Roman and Ottoman empires, the rubble of the French or British empires—Ozymandias, gaze at the vast wasteland around you!

Or wherever you happen to find yourself in whatever corner of the US empire of capital, you'll be pursued by the coiled halo of the goddesses overflowing with blessings from Nature bereft of greed and covetousness and cruelty, the armed angels of justice and the revolutionary masses....

***E. San Juan Jr.** is a writer, poet, and an expert in the areas of social theory, race studies, and on the specific subject of the history of Filipinos. The leading authority on Philippines-U.S. literary studies, San Juan published books titled "After PostColonialism: Remapping Philippines-US Confrontations," "IN THE WAKE OF TERROR: Class, Race, Nation, Ethnicity in the Postmodern World," and "FROM EXILE TO DIASPORA: Versions of the Filipino Experience" among others. San Juan gave in to the editor's request for a poem on the subject of human rights for this special issue of the FHR.