

## **BAYAN MUNA: a battle cry lives on**



by Lovella de Castro

### WHAT'S IN A NAME? A LOT.

As members of the party list group Bayan Muna (People First) have found out in the last seven years, being associated with the progressive party is enough to put one's life on the line.

From January 2001 to July 2007, at least 134 members and leaders of Bayan Muna have fallen victim to extrajudicial killings, making it the organization with the most number of victims. At least 14 have been abducted and remain missing.

In both urban and rural areas, the party list and its members are subjected to a well-organized, nationwide vilification campaign by the Armed Forces of the Philippines (AFP). Soldiers, paramilitary units and vigilante groups have gone house to house, village to village, publicly demanding that Bayan Muna supporters "clear their names" or "surrender."

Some of the party's regional offices have either been raided, bombed or burned down. In 2005, the

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# BAYAN MUNA: a battlecry lives on

... from page 1

Bayan Muna provincial office in Northern Samar was lobbed with a homemade Molotov bomb with a military newsletter used as the bomb's wick. In nearby Eastern Samar, the provincial office was burned down. The party's provincial office in Tarlac, Central Luzon was also burned down in 2006.

## Alternative Left party

It is not difficult to see who are behind these attacks and why it is being done.

Formed in 1999 to represent the impoverished, oppressed and marginalized sectors of Philippine society, Bayan Muna's members include ordinary workers, farmers, fisherfolk, urban poor, indigenous peoples, women, youth, professionals and small entrepreneurs.

It's mass character and definitively Left politics puts it at odds with the traditional forces that have lorded it over Philippine politics – big business and landlord interests, political dynasties, corrupt politicians and government officials, the police and military establishment. These are very powerful forces that are most resistant to the politics of people empowerment and social change that the party espouses.

Bayan Muna's members and elected representatives are among the Arroyo regime's staunchest critics and have actively sought the President's impeachment, resignation or ouster.

The party's progressive vision has earned for its members the tag "enemies of the state" as far as the Arroyo regime and its military is concerned. Oplan Bantay Laya (OBL) or

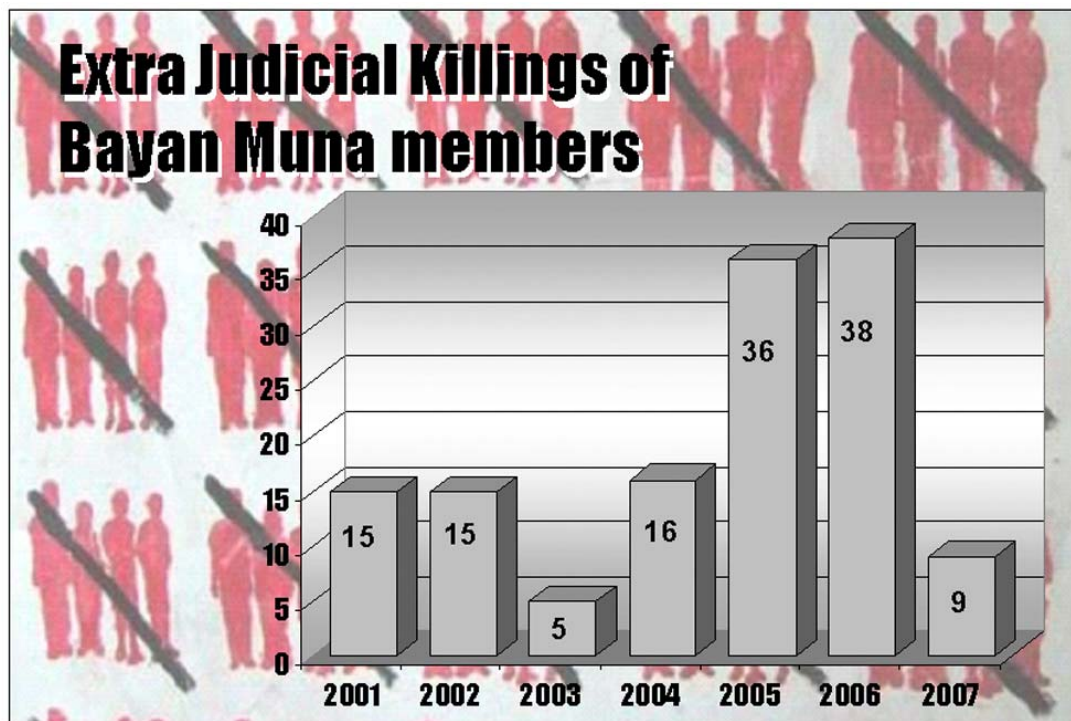
Operation Plan Freedom Watch, the AFP's counter-insurgency program, considers Bayan Muna as a communist "front organization" and is thus a target for "neutralization."

Despite this, the party has managed to top the 2001 and 2004 party list elections, garnering the maximum three seats in the House of Representatives. In the recent 2007 polls, it placed second, getting enough votes for three seats if not for a COMELEC (Commission on Elections) ruling that limited all party list groups, except the number one placer, to only two seats per party.

## Attacks on Bayan Muna

The first victim of the politically-motivated killings under the Arroyo regime was Bayan Muna organizer Ramon Ternida, 20, who was gunned down on 15 April 2001, at Bgy. Masipit, Calapan City, Mindoro Oriental. From then on, more prominent party leaders, including elected public officials, were killed.

On 13 February 2004, a few months before the May 2004 elections, Naujan Vice Mayor Atty. Juvy



... turn to next page

Magsino was gunned down together with Bayan Muna member Leima Fortu in Naujan town, Mindoro Oriental. The crime happened half a kilometer away from a detachment of the Army's 204th Infantry Brigade. Prior to the incident, Magsino was the subject of military threats and harassment due to her active campaign against the heavy troop deployment and operations in Mindoro Island.

On 3 March 2005, Tarlac City Councilor and Bayan Muna provincial chairperson Abelardo Ladera was also killed. Ladera took an active role in the workers' and peasants' struggle at the Hacienda Luisita. Prior to the incident, a powerpoint presentation prepared by AFP Northern Luzon Command identified Ladera as "a top-ranking member of the Communist Party of the Philippines" and thus a

target for neutralization.



Rodolfo Alvarado, Bayan Muna 6<sup>th</sup> nominee for Congress in the 2004 elections, was gunned down near his home on 31 December 2006. Rodolfo was in his car when he was shot.



The most recent victim was Mario "Mayong" Auxilio, Secretary General of Bayan Muna-Bohol. He was shot on 15 June 2007. Mayong succumbed to three gunshot wounds two days later.

### "Legal offensive"

Since last year, Bayan Muna's congressional representatives and party leaders have been charged with fabricated criminal cases. In fact, the Supreme Court just



From top: Atty. Juvy Magsino, Leima Fortu, Abelardo Ladera

recently dismissed all the rebellion cases filed by the Department of Justice against representatives and leaders of Bayan Muna and other progressive parties Anakpawis and Gabriela. In its ruling, the Supreme Court said that state prosecutors failed to show probable cause and violated due process in pursuing its case.

A multiple-murder case was filed in Leyte province against Bayan Muna congressman Satur Ocampo based on the discovery by the AFP of an alleged mass grave of victims of an internal purge within the Communist Party. Ocampo was arrested but was subsequently released and granted bail by the Supreme Court on 3 April after 18 days of detention, indicating that the evidence was weak.

Early this year, a disqualification case was filed at the Commission on Elections against Bayan Muna, Anakpawis and the Gabriela Women's Party by three widows whose husbands were allegedly ordered killed by the parties' representatives. The case was dismissed in June 2007.

### Triumph in the 2007 polls

Despite all the challenges hurled against the party, Bayan Muna appears headed for greater victory.

In a press statement right after the May 2007 polls, Rep. Ocampo said, "We prevailed over huge stumbling blocks. We triumphed over the all-out attacks from the entire machinery of the Arroyo government, including the military, which aimed to decimate our ranks in Congress. This is our third and most heroic fight, because we prevailed over the entire machinery of government and came out winners."

The intent is clear. The attacks against Bayan Muna and other progressive partylist groups are a desperate but vain attempt to control the Filipino people's growing disgust against the country's corrupt political system. "We were able to foil the demented objectives of the Arroyo administration to totally remove us from Congress and to destroy our partylist organizations," added Ocampo.

Bayan Muna's name speaks for itself: victory for the people. **FHR**

## **'Coercion, corruption and violence':** **People's IOM reports irregularities,** **rights abuses at 2007 polls**

by Ruth Cervantes

Having witnessed first-hand the “goons, guns, gold, Garci and the generals” in the 2007 mid-term elections, a group of international observers said that the electoral process in the country was ridden with “coercion, corruption and violence.”

The People's International Observers' Mission (IOM), a group of 27 delegates from 12 countries, noted the coercion of voters by the military, particularly supporters of progressive party-list groups.

The People's IOM came out with a report citing violations of electoral procedures, massive disenfranchisement of voters, rampant vote-buying, intimidation of voters by the military, and manipulation of the voting and canvassing procedures by political dynasties.

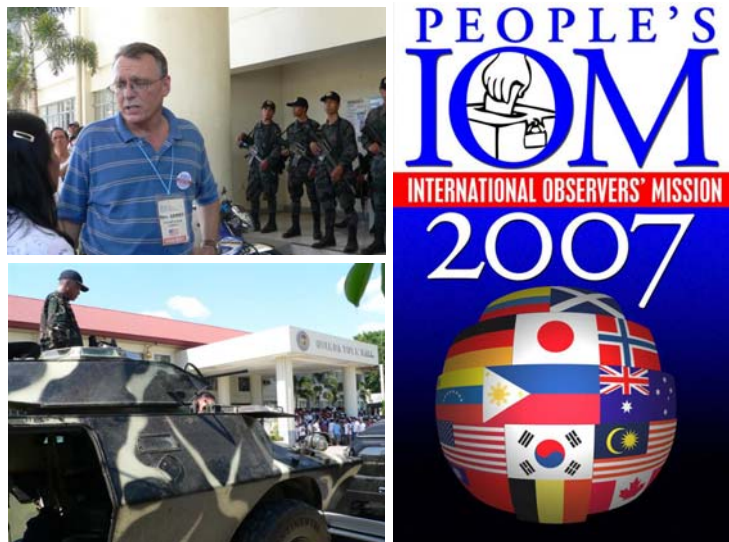
Participants in the three-day People's IOM came from Australia, Belgium, Canada, Germany, South Korea, Japan, Myanmar, Norway, Scotland, the Netherlands, Switzerland and the U.S. in response to an international appeal from numerous church leaders, professionals, academics and grassroots organizations in the Philippines. The mission aimed to observe the democratic process in the face of alleged electoral fraud, militarization and violence in the 2004 national elections.

From May 14 to 16, ten teams were dispatched in ten areas in seven key voting regions throughout the Philippines, namely: Tondo, Manila; Makati City; Quezon in Southern Tagalog; Sorsogon and Masbate in Bicol; Nueva Ecija and Pampanga in Central Luzon; Cebu in the Visayas; Islamic City of Marawi in Lanao del Sur & Compostela Valley in Mindanao.

### **Military role in polls**

The People's IOM representatives collected testimonies from people in the communities which describe systematic military harassment of voters who support legitimate political partylist groups. The mission documented an organized vilification campaign carried out both overtly and covertly by the AFP against progressive partylist groups.

“Our mission saw and heard convincing evidence that the military has had a very significant impact in the



Rev. Emery (Top right) talks to a pollwatcher who was barred by heavily armed policemen from the canvassing area at Guimba; while an army tank guard the Guimba Municipal Hall (bottom right)

lead-up to the Election, having brought troops into position in the local villages in February to put their plan into effect. And of course we saw them at road-blocks, in their village encampments and in the polling areas on Election Day. We also saw the posters they put up on the roads and at the polling stations in pursuance of the campaign against the progressive parties,” said Australian professor and observer Gill Boehringer, who went to Compostela Valley in Mindanao.

The People's IOM noted that despite this reality, grassroots organizations throughout the electoral districts made impressive organized efforts to safeguard their votes.

### **'No vibrant democracy'**

Prof. Boehringer said, “While President Gloria Macapagal-Arroyo was content to say loftily that Filipino voters cast their ballot free of coercion and according to their own will, our group experienced it otherwise on the ground.”

Delegates of the People's IOM witnessed a strikingly different reality including: significant number of disenfranchised voters and vote buying, election-related

violence, direct intimidation of voters by elements of the Armed Forces of the Philippines (AFP), suspicious absence and abandonment of duties and responsibilities of COMELEC officials at numerous voting centers and incidents of overt coercion by candidates from powerful political clans.

Canadian journalist and observer Stefan Christoff was with the team in Tondo, Manila where he encountered a U.S. Embassy official who observed that “the Philippines is clearly a vibrant democracy,” amidst the election chaos.

“We didn’t see a vibrant democracy. What we did see was coercion, corruption, and violence,” said Stefan.

The People’s IOM also noted the relationship between systematic violations in the 2007 elections, and the extrajudicial killings which have claimed the lives of

over 850 people since 2001.

### Working with Filipinos for clean elections

Presbyterian priest Rev. Larry Emery who came from the USA said that he joined the mission as a fellow struggler with the Filipino people for justice and democracy.

“I did not come to the Philippines with a sense of superiority, sitting in judgment upon you because our system is so perfect and free from error. American politics have their problems and the electoral system has been subject to manipulation, especially since 2000,” said Emery.

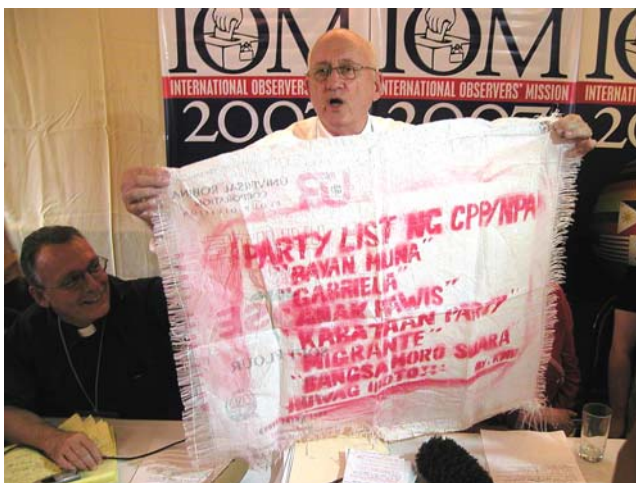
“While there are forces that are working against the right of every voter to be a part of the electoral process, there are also forces working to ensure a fair and honest election and I support this effort,” said Emery of his participation in the People’s IOM.

### Anomalies, recommendations

Throughout the Philippines, overt political coercion through electoral corruption, open ‘vote buying’, rampant breaches of electoral regulations and outright terror fashioned a context through which economic and political dynasties attempted to perpetuate their positions of power through the mid-term elections.

Rev. Emery’s team that observed the polls in Nueva Ecija said that “Too often, the political dynastic politics degenerates into the use of harassment, intimidation, and coercion of the political opposition and individual voters at the worse, and secretive falsification of election documents at best, all of which compromise the elective process.”

Among the initial recommendations presented by the People’s IOM are the following; institute major changes in the electoral processes and procedures in order to make them less cumbersome; insulate the elections from the partisanship of governmental agencies and public officials; alter the culture of fraud engendered by traditional politicians; effectively halt the military’s interventionist role within the electoral process; reinforce the party-list system in order to guarantee genuine representation of marginalized sectors; elevate the consciousness and education of voters; conduct an independent and serious investigation on the conduct of the 2004 national elections in order to resolve the question of legitimacy of Arroyo’s mandate. **FHR**



Top: A military checkpoint stopped the Compostela Valley PIOM team. Bottom: Prof. Boehringer presents to the press evidence of villification campaign against progressive partylists

# “Save Filipino Lives”, TF Usig Told

HKCAHRPP

Hong Kong Campaign for the Advancement of Human Rights and Peace in the Philippines

**T**ASK FORCE USIG, THE SPECIAL UNIT WITHIN THE PHILIPPINE NATIONAL POLICE (PNP) created by President Gloria Macapagal-Arroyo in May 2006 to investigate and prevent the country’s wave of extrajudicial killings, is once again utilizing its resources to discredit the number of killings in the country since 2001 when Arroyo became president rather than stop them.

One of the recent manifestations of this pattern is an online article on the ABS-CBN web site by Angelo Lapitan Gutierrez (“Task Force Usig Cleans KARAPATAN’s Mass of Dead Activists” at [www.abs-cbnnews.com/storypage.aspx?StoryId=72838](http://www.abs-cbnnews.com/storypage.aspx?StoryId=72838)). The story notes that Task Force Usig acquired a copy of the list of extrajudicial killings compiled by Philippine human rights group KARAPATAN (Alliance for the Advancement of Human Rights) between 2001 and November 2006 from the web site of the Asian Human Rights Commission (AHRC), a regional human rights organization based in Hong Kong and a member of the Hong Kong Campaign for the Advancement of Human Rights and Peace in the Philippines (HKCAHRPP). The article further explains that the task force used this copy of the report to verify the number of extrajudicial killing victims in the Philippines during this period. After working for four months to substantiate the number of deaths, Task Force Usig came to the conclusion that 115 extrajudicial killings had occurred with a further 207 still to be confirmed instead of the 783 claimed by KARAPATAN (the list of KARAPATAN has now risen to 839 as of March 2007).

HKCAHRPP, a coalition of organizations and individuals in Hong Kong concerned about the extrajudicial killings and disappearances plaguing the Philippines for the past six years, wants to clarify, first of all, that the KARAPATAN list on AHRC’s web site was an annex to the report published in November 2006 by HKCAHRPP that contained the findings of its fact-finding mission to

the Philippines last July.

Having clarified this point, however, HKCAHRPP is perplexed. Why does Task Force Usig, for instance, have to rely on KARAPATAN and AHRC’s web site to acquire a list of victims of extrajudicial killings in the country? Why are victims and their families not contacting Task Force Usig directly or police officers in their local police station? Why is the investigative machinery of Task Force Usig, and the PNP in general, apparently not able to function properly?

More importantly, however, HKCAHRPP wants to ask why Task Force Usig continues to be preoccupied with the number of extrajudicial killings that have occurred in the country? Is it an attempt to divert the attention of the people of the Philippines as well as the international community from its failure to successfully arrest, prosecute and convict hardly any of the perpetrators of these killings?

The role and mandate of Task Force Usig is not to discredit information about human rights violations in the country, especially every Filipino’s right to life, but to investigate and prosecute those responsible for killing at a minimum more than 100 peasants, trade unionists, students, priests and lay people, journalists, lawyers and opposition politicians who apparently have been killed because they dared to be advocates of the rights of the poor—the majority of the people in the Philippines. The role and mandate of Task Force Usig is not to be the propaganda arm of the government but the investigative branch of the legal system. One too many people in the Philippines have already been killed extrajudicially, and the number keeps increasing—a trend that can only continue with so few suspects arrested, prosecuted and convicted.

Moreover, the failure of Task Force Usig and other units of the PNP to successfully arrest, prosecute and convict those responsible for the country’s extrajudicial killings breeds a climate of impunity that only encourages more extrajudicial deaths. Because Task Force Usig and the PNP have not adequately en-



Photo courtesy of <http://www.interlocals.net>

## Canadians condemn attacks against journalists in the Philippines

**THE PHILIPPINES-CANADA TASK FORCE on Human Rights** (PCTFHR) has condemned the continuing attacks against journalists in the Philippines and has lamented the country's infamous distinction of being the second most dangerous place in the world for journalists after Iraq.

The PCTFHR referred to the extrajudicial killing of journalist Carmelo Palacios on 18 April 2007 in Nueva Ecija province, and the 19 April shooting of Philippine Daily Inquirer correspondent Delfin Mallari, Jr. in Lucena City, south of Manila.

Palacios is the 51st journalist to be killed under the watch of Philippine President Gloria Macapagal-Arroyo. Mallari was wounded but survived the attack.

In November 2006, a team from the PCTFHR's Canadian Human Rights Fact-Finding Mission to the Philippines was interviewed by Mallari in Lucena City.

Mallari wrote articles about the mission and was instrumental in publishing news of the team's harassment and intimidation by the Philippine military, police and other state agents. The team, led by Filipino-Canadian lawyer Ning Alcuitas, endured approximately 13 hours of interrogation, harassment and threats from November 17 to 20, 2006 at seven different checkpoints in the region.

"Journalists like Mallari expose the dark realities of the Philippine state that implements policies like Oplan Bantay Laya. They help give voice to the individuals, families and communities that are impacted by state policies," the PCTFHR said in a statement.

It said, "It is outrageous that journalists are now themselves the target of political repression, politically-motivated extrajudicial killings and other forms of harassment (including unwarranted libel suits) by the Arroyo regime."

"We salute the resolve of journalists in the Philippines for continuing to write and expose the realities of the people despite the attempts to suppress their freedom of expression," said the PCTFHR, who also commended efforts of journalists to organize and mobilize themselves. **FHR**

forced the Witness Protection, Security and Benefit Act—Republic Act 6981—the surviving victims, their families and other witnesses are fearful of making complaints to the police and of testifying in court. Their fear makes arrests and prosecutions almost impossible in the Philippines. Without addressing this law enforcement deficiency, i.e., protecting witnesses, the future success of Task Force Usig and the PNP in stopping the extrajudicial killings in the country as well as other human rights violations, such as disappearances, and, indeed, ordinary crimes is questionable.

The onus on Task Force Usig and the PNP to arrest suspects, protect witnesses and stop the country's extrajudicial killings is particularly acute as Philip Alston, the U.N. special rapporteur on extrajudicial, summary and arbitrary executions, and even the Arroyo-appointed Melo Commission have concluded that the military is the primary perpetrator of the extrajudicial killings in the country.

The same verdict was also reached by the second session of the Permanent People's Tribunal (PPT) on the Philippines that was held in the Netherlands in March. It is thus imperative that Task Force Usig and the PNP shoulder their responsibilities to protect the right to life of the Filipino people. They are the bulwark between Filipinos and a military that apparently believes it has a license to kill.

It is in this context that HKCAHRPP thus calls upon Task Force Usig and the Arroyo government to desist from its preoccupation with numbers and discrediting information and instead focus its attention on the current failures of the legal system that, if not addressed, will only lead to future failures—a cycle that must be broken if justice is to have any meaning for the Philippines and its people.

**May 3, 2007**

### CO-CONVENERS, HKCAHRPP

**Fr. Dwight dela Torre,**

Philippine Independent Church

**Bruce Van Voorhis,**

Asian Human Rights Commission

**Cynthia Tellez,**

Mission for Filipino Migrant Workers

**Rey Asis,** Asian Students Association

**Eman Villanueva,** United Filipinos in Hong Kong

**Editor's Note:** This space is reserved for the advocates' take on justice, peace and human rights issues. Materials may be sent to [krptn\\_yahoo.com](mailto:krptn_yahoo.com) or [karapatan.pid@gmail.com](mailto:karapatan.pid@gmail.com).

## Sri Lanka Red Cross volunteers abducted and killed

**SRI LANKA** – Two male volunteers of the Sri Lanka Red Cross (SLRC) were abducted on 1 June 2007 and found dead the following day in Kiriella, near the central town of Ratnapura, 60 miles southeast of Colombo.

The victims, identified at the Ratnapura Base Hospital, were Karthakesu Chandramohan, 26 and Sinnarasa Shanmugalingam, 32.

The International Secretariat of Organisation Mondiale Contre la Torture (World Organization Against Torture, OMCT) and Antenna International in Sri Lanka reported that Chandramohan and Shanmugalingam were with four other SLRC colleagues at platform 4 at the Colombo Fort Railway Station when the incident occurred.

The group was returning to the SLRC headquarters in Batticaloa after attending a five-day workshop in the city of Mount Lavinia.

At around 6:45, the group was approached by four to five men dressed in civilian clothing. The men asked

the victims for their National Identity Cards (NIC) and started interrogating them.

The interrogators who claimed they were from the Criminal Investigation Department (CID) spoke to the group in Sinhala, allegedly the only language the interrogators could speak fluently.

They asked Chandramohan and Shanmugalingam to come with them to the police station, on the grounds that they needed more information on the two volunteers.

One of the other colleagues volunteered to go with them and translate for them from Tamil to Sinhala since the two victims were not fluent in Sinhala.

The interrogators initially agreed but when the co-worker was about to get in, the vehicle took off. However, he managed to take the registration number (No. 252 - 6432) of the white van with tinted windows. He subsequently met up with his other colleagues and called the head of SLRC in Colombo. (OMCT Report)

**FHR**

## European Committee of Social Rights says Portugal tolerating violence against children

**GENEVA** – On 23 May 2007, the European Committee of Social Rights ruled unanimously that Portugal does not ensure the satisfactory application of Article 17 of the European Social Charter and fails to protect children from corporal punishment and other humiliating treatment in all situations, including at home.

Article 17 of the European Social Charter requires a prohibition in legislation against any form of violence against children in all settings.

“We are pleased of this decision, and we wish that, from now, Portugal will fully conform to its obligations under the European Social Charter by explicitly and effectively prohibiting all corporal punishment of children” said Cécile Trochu Grasso from the OMCT.

On 5 April 2006, the Portuguese Supreme Court decided that “moderate punishments administered to the minor by the person entitled to do it and whose purpose is exclusively educational and adequate to the situation, are not unlawful.”

After the said ruling, the OMCT lodged a collective complaint against Portugal on the grounds that the law, as interpreted by Portugal’s highest Court, tolerates corporal punishment.

The OMCT said, “This is a new interpretation of the

law by the Supreme Court which constitutes a worrisome reversal as precedent in Portugal.”

In 2003, OMCT lodged a first a complaint against Portugal on the grounds that its legislation failed to protect children from corporal punishment and other humiliating treatment. The European Committee of Social Rights earlier ruled that, according to an earlier decision of the Supreme Court, Portugal’s case law did prohibit all corporal punishment.

On 12 June 2006, OMCT’s second complaint was declared admissible and they later secured a victory with the above ruling of the European Committee of Social Rights.

Although the Portuguese Government maintained that its Criminal Code explicitly prohibits violence against children and said that the Criminal Code is currently being revised to establish a new offence (in articles 152 and 152A) for inflicting physical or psychological ill-treatment, including corporal punishment, in cases where the infliction is “*intense or repeated*,” the European rights body ruled that Portugal is tolerating violence against children. (OMCT Report)

**FHR**

## Jailed Cuban patriots must be set free

*"If preventing the deaths of innocent human beings...and preventing senseless invasion of Cuba is the reason I am being sentenced today, then let that sentence be welcomed."*

– Ramon Labañino, political prisoner



Free the Cuban Five: (L-R) René González, Antonio Guerrero, Ramon Labañino, Fernando González and Gerardo Hernández

**A**bout a decade ago, five Cuban patriots – Gerardo Hernández, Ramon Labañino, Antonio Guerrero, Fernando González and René González worked to help prevent terrorist attacks against Cuba, thus protecting the lives of innocent people.

Now known all over the world as the Cuban Five, they infiltrated terrorist organizations operating in Miami, Florida in the U.S. For more than 40 years, anti-Cuba terrorist organizations based in Miami such as the Alpha 66, Omega 7, Brothers to the Rescue, and Cuban American National Foundation, have engaged in countless terrorist activities against Cuba, and against anyone who advocates a normalization of relations between the U.S. and Cuba. Reports placed the death toll resulting from these terrorist attacks against Cuba at more than 3,000.

But instead of arresting the terrorists, the FBI arrested the five Cuban patriots working against these terrorists on 12 September 1998. The five political prisoners were illegally held in solidarity confinement for 17 months in a Miami jail.

### Trial and prejudice

The trial began in November 2000. With the seven-month trial based in Miami, a virtual witch hunt atmosphere existed. The defense attorneys' motions for a change of venue were denied five times by the judge, although it was obvious that a fair trial was impossible in that city.

The Cuban Five were wrongfully accused with conspiracy to commit espionage and conspiracy to commit murder, and were unjustly punished. On 8 June 2001, they were convicted. Three of them received life terms (two life terms for one), and the other two were meted jail terms of 19 years and 15 years respectively.

On 9 August 2005, the seventh year of their unjust imprisonment, the Cuban Five won in the appeal they filed. A three-judge panel of the 11th Circuit Court of Appeals overturned the convictions of the Cuban

Five and ordered a new trial outside of Miami.

In October that same year, however, the court announced its acceptance of the prosecution's request for another appeals hearing, this time before the whole court rather than a three-judge panel. Therefore the opinion overturning the Cuban Five's convictions has been set aside while a new appeal is heard.

The UN Working Group on Arbitrary Detentions has called on the U.S. government to remedy the injustice committed on the Cuban Five, citing the Appeals Court finding that there were irregularities in the trial and arrest of the five, thereby effectively denying them their right to a fair trial.

For the past nine years, these five men have been placed in maximum security prisons. They have been held incommunicado in isolated cells for long periods of time with two of them being denied their right to family visits.

### International support

In the United States, the National Committee to Free the Cuban Five ([www.freethethefive.org](http://www.freethethefive.org)) said, "This case is a political case and the Cuban Five are political prisoners. Their freedom will depend not only on the arduous work of the defense team but just as importantly on public support that can be organized...to win freedom for the Cuban Five."

Over 250 committees have been established in the U.S. and around the world, demanding immediate freedom for Gerardo, Ramon, Antonio, Fernando, and Rene.

Important declarations have been made by hundreds of parliamentarians in Britain, Italy, Europe and Latin America. **FHR**

## Human rights defenders attacked in Iloilo: one injured, two missing

by **Girlie Padilla**

**ILOILO** – Two veteran and well-known activists in Panay island were forcibly abducted, while a third was shot and left to die, in one of the most brazen attacks so far on human rights defenders in the country.

Abducted last 12 April 2007 were Maria Luisa Posa-Dominado, 52, spokesperson of SELDA-Panay, an organization of former political prisoners advocating the release of political prisoners and a stop to torture and other inhuman and cruel treatment of prisoners; and Nilo Arado, 39, chairperson of the Bagong Alyansang Makabayan (BAYAN or New Patriotic Alliance) in Panay and a national council member of the Kilusang Magbubukid ng Pilipinas (KMP or the Peasant Movement in the Philippines).

The two remain missing to this day.

With them was Ely Garachico, 50, secretary general of the human rights group Karapatan, who was driving their vehicle, a black Mitsubishi L200 pick-up. Garachico was shot on the neck, left to die by the roadside but managed to survive.

The three were on their way home from Antique



Nilo Arado and Maria Luisa Posa-Dominado remain missing to this day

when, upon reaching Cabanbanan, Oton in Iloilo at around 7:00 p.m., a Mitsubishi van that had been tailing them cut into their path. Three armed men got off and started shooting, hitting Garachico on the left side of his neck.

The armed men then dragged Dominado and Arado to their van and threw Garachico on the right side of the road. One of the assailants took the victims' pick-up and drove off.

Garachico, who managed to shout for help, was brought to the hospital by the village captain of Cabanbanan.

The following day, Bombo Radyo–Panay, a local radio station, reported that the black pick-up taken by the assailants was found in a secluded area in Barangay Guadalupe, Janiway, 33 kms. northwest of Iloilo City (30 kms. from where the victims were waylaid.) The pick-up was burned down and was still spewing smoke when it was discovered.

Prior to the attack, in December last year, Arado reportedly received death threats through his cell phone. **FHR**

## Army kills three peasants in Negros

by **Fred Caña**

**NEGROS OCCIDENTAL** – Three unarmed farmers were killed by government troops in the province last 5 May 2007, in what were most likely acts of reprisals on residents suspected of harboring New People's Army rebels.

On that day, some 50 elements of the 11th Infantry Battalion of the Philippine Army (IBPA) conducted internal security operations in the hinterlands bordering the municipalities of Isabela and Magallon (formerly Moises Padilla), Negros Occidental.

At 2:00 in the afternoon, an encounter between the military and New People's Army (NPA) rebels took place at Sitio Malipayon, adjacent to Sitio Coyaoyao, in Brgy. Sibucan-an. The firefight lasted for almost an hour. Residents reported hearing sporadic gunfire and said soldiers scoured the neighboring areas as part of their pursuit operations following the encounter.

Almost a thousand residents from three upland

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# SC junks rebellion case vs. Batasan 6

by Ruth Cervantes

MANILA – In what can be considered a slap on the Arroyo Administration’s face, the Supreme Court (SC) on 1 June ordered the dismissal, for lack of probable cause and violations of due process, of the government’s rebellion cases against six party list lawmakers, four leftist activists and 41 other individuals.

The rebellion case was filed in the aftermath of the government’s declaration of a state of emergency in February last year.

The high tribunal also criticized the Department of Justice (DOJ) for its political motive in charging the said individuals for rebellion.

The six party list representatives cleared of the charges were: Liza Maza of the Gabriela Women’s Party, Joel Virador, Saturnino Ocampo and Teodoro Casiño of Bayan Muna, Crispin Beltran and Rafael Mariano of Anakpawis. Also cleared of rebellion charges were activists Vicente Ladlad, Nathaniel Santiago, Randall Echanis, Rey Claro Casambre and 41 others.

The SC acted on the consolidated petitions for the writs of prohibition and certiorari to enjoin petitioners’ prosecution for rebellion and to set aside the rulings of the DOJ and the Regional Trial Court (RTC) of Makati City on the investigation and prosecution of rebellion cases against the ten.

In Beltran’s petition (G.R. No. 175013), the court determined that: (a) the inquest proceeding against Beltran for rebellion was void; and (b) there is NO probable cause to indict Beltran for rebellion.

Beltran was arrested without warrant on 25 February 2006 and detained in Camp Crame a day after Mrs. Arroyo placed the entire country under a state of emergency. The arresting officers did not inform Beltran of the crime for which he was arrested and were the ones who issued an affidavit alleging that Beltran had incited rallyists to sedition.

Beltran was subjected to inquest on the same evening for sedition and on the 27th to a second inquest for rebellion. The inquest prosecutor indicted Beltran and filed the information at the Makati RTC Branch 146 respectively.



Batasan 6 - Casiño, Virador, Ocampo, Beltran, Maza and Mariano at the DOJ office during the March 23, 2006 preliminary investigation into the rebellion case. (Photo courtesy of the Bayan Muna Media Bureau)

In the Maza and Ladlad petitions (G.R. Nos. 172070-72 and 172074-76), the high court ruled that “the preliminary investigation was tainted with irregularities.”

The SC said that the actions of prosecutors belie their claim that the preliminary investigation was done in accordance with the Revised Rules of Criminal Procedure. “By preemptorily issuing the subpoenas to petitioners, tolerating the complainant’s antics during the investigation, and distributing copies of a witness’ affidavit to members of the media knowing that petitioners have not had the opportunity to examine the charges against them, respondent prosecutors not only trivialized the investigation but also lent credence to petitioners’ claim that the entire proceeding was a sham,” said the SC in its resolution.

The SC also found merit in the petitioners’ doubt on the DOJ’s impartiality. It said that “Respondent Secretary of Justice, who exercises supervision and control over the panel of prosecutors, stated in an interview on 13 March 2006, the day of the preliminary investigation, that, “We [the DOJ] will just declare probable cause, then it’s up to the [C]ourt to decide x x x.” **FHR**



# WHAT IS DUE PROCESS?

by Atty. Rex J. Ma. Fernandez

**DUE PROCESS** is every citizen's right to a fair and proper legal procedure. It is what is sometimes called fair play, or fairness. Fairness, according to former Supreme Court Justice Isagani Cruz means to hear before condemning.

The elements of due process are the twin concepts of the right to be notified and the opportunity to be heard. One must be given notice or the accused must be informed that s/he is being charged for a crime or that a complaint has been filed against him/her. Then, the accused has the right to be heard or the right to present evidences to refute the charges.

If, despite being notified of the charges against him/her and being given the opportunity to be heard, a person is not able to do so because s/he is in hiding, s/he refuses to face the complainant or does not recognize the court's jurisdiction, the trial continues and due process is still served.

## What is a preliminary investigation?

A preliminary investigation is a procedure provided by law wherein the public prosecutor or fiscal examines the complaint and the evidence presented. On the basis of the evidence, the prosecutor determines whether there is probable cause or there are enough evidences to show that the accused is probably guilty or there is enough basis to charge him/her in court.

If the prosecutor determines that there is probable cause, s/he files information before the court, which will then hear the case. The court, in turn, will determine whether the accused is guilty beyond reasonable doubt.

A preliminary investigation is not part of due process. But the accused must be accorded due process in the preliminary investigation: s/he must be notified of the complaint and be given the opportunity to refute it.

If a criminal case was filed in court without a preliminary investigation, the statutory rights, or

rights under the law, of a person is violated (but not necessarily his/her constitutional rights). It is Congress which passes and revokes laws. Therefore, statutory rights can be revoked by Congress as differentiated from the constitutional right to due process which cannot be revoked unless the Constitution is amended.

A preliminary investigation is conducted in capital offenses and afflictive offenses – any offense with a penalty no lower than four years two months imprisonment are entitled to a preliminary investigation.

In the case of the Batasan 6, the Supreme Court found that due process rights were violated during the preliminary investigation. The Supreme Court found that the prosecutor who is the decision maker in that investigation was biased and partial. If the decision maker is partial, it is as though the accused was not given the opportunity to present evidence for him as the decision maker had already made a decision before the accused submitted their evidence.

## What is an inquest proceeding?

When a person is arrested while committing a crime, an inquest proceeding is conducted. An inquest proceeding is a preliminary investigation conducted for persons arrested without a warrant. During the inquest proceeding, a person is notified of the charges being brought against him/her and has the right to present evidences to refute the charges.

It should be noted that warrantless arrests are only allowed if it complies with the Rules of Criminal Procedure, i.e. when the arresting officer has personal knowledge of a crime being committed, about to be committed, or has been committed or the person to be arrested is an escapee.

A person who is arrested because he is caught doing a crime is made to undergo inquest proceedings wherein he is given also the right to notice and



Anakpawis representative Ka Crispin Beltran at the police station shortly after his arrest.

the right to present his own evidence.

In the case of Anakpawis Party List Representative Crispin “Ka Bel” Beltran, there was no inquest proceedings made for rebellion as the notice given to Ka Bel was for inciting to sedition. Therefore, the information filed at the court for rebellion did not go through inquest proceedings because the inquest was for inciting to sedition.

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villages of Isabela and Magallon left their homes for various evacuation centers.

Among them was farmer Richard Sarillo, 28, who secured his family by moving his wife and five children to the center of Brgy. Sibucan-an. He went back to their house to attend to his livestock but was later found with his head blown off and his face hardly recognizable.

Sarillo’s father-in-law, Benjamin Gelongga, 72, and his nephew Bobby Quilo were also found dead inside Gelongga’s home. Both had gunshot and stab wounds.

The soldiers later brought the bodies of the victims to the municipality of Isabela and were presented to the media as casualties of the encounter.

## Why are all these rights and procedures necessary?

The right to due process is provided by the Constitution to protect a person from being arbitrarily accused, charged, and penalized. The right to preliminary investigation or, in the case of warrantless arrests, to an inquest proceeding is an additional guarantee provided by law to protect a person from being arbitrarily charged and unjustly arrested and penalized.

While the right to preliminary investigation can be revoked or suspended especially during Martial Law, the right to due process is absolute.

These rights protect citizens against abuses by government officials. Respect for due process and the proper conduct of preliminary investigations are marks of a democracy. Suspension of the right to preliminary investigation makes respect for the right to due process tenuous. A government which violates the right to due process with impunity is a barbaric dictatorship and has no place in a civilized world.

A government wields great power over its citizens. But the greatest achievement of any government is to have power and wield none. **FHR**

Lt. Col. Jess Manangquil, the commanding officer of the military unit, maliciously insisted that the victims were NPA members killed during the gun battle.

It was only on a day after the incident that Sarillo’s wife learned that her husband, father and cousin were killed by the soldiers during the pursuit operations.

Sarillo and Gelongga were members of the Barangay Inulingan Farmers’ Association, a local peasant organization affiliated with the Kilusang Magbubukid ng Pilipinas (Peasant Movement of the Philippines) – organizations that have been tagged by the Armed Forces of the Philippines (AFP) as “communist fronts” and “enemies of the state.” **FHR**

# The June 12, 1898: Declaration of Subservience

by Dee Ayroso

***“And having as witness to the rectitude of our intentions the Supreme Judge of the Universe, and under the protection of Mighty and Humane North American Nation, we do hereby proclaim and declare solemnly in the name by authority of the people of these Philippine Islands, that they are and have the right to be free and independent...”***



Such words were from the “Act of Declaration of Independence” from Spain, read by Ambrosio Rianzares Bautista at the balcony of Emilio Aguinaldo’s residence in Kawit, Cavite on June 12, 1898, now commemorated as Philippine Independence Day.

Ironically, the “Mighty and Humane North American Nation” did not recognize the declaration and instead, Commodore George Dewey’s naval warships were outside Manila Bay, poised to take over right after the Spanish colonizers’ retreat.

Rianzares, Aguinaldo’s “war counsellor” himself wrote the document in Spanish, which he patterned after the 1776 American Declaration of Independence. The act also established a government under “the dictatorship” of Aguinaldo. It was signed by 98 persons, including an American officer, L.M. Johnson, Colonel of Artillery.

It was a festive gathering, where for the first time the Philippine Flag was raised and the National Anthem was played in public. Apolinario Mabini was said to have objected to the premature proclamation of Philippine independence, reasoning that Aguinaldo must first consolidate the Philippine government, but Aguinaldo won out. Days after the declaration, Mabini was able to convince Aguinaldo to replace the dictatorial government with a revolutionary one.

Six months earlier, however, on Dec. 14, 1897, Aguinaldo and several leaders from the Magdalo faction of the Katipunan had abandoned the revolution after signing

the Pact of Biak-na-Bato with the Spanish colonizers. Aguinaldo and his men – among those were the members of the Supreme Council of the 1897 Republic of Biak-na-Bato – agreed to a self-exile in Hong Kong in exchange for amnesty and P800,000. Abandoned by Aguinaldo’s weak leadership, other Katipunan leaders carried on with the revolution.

In Hong Kong, Aguinaldo was visited on several occasions by American consuls E. Spencer Pratt and Rousenville Wildman, who convinced him to return and continue the fight against Spain. The United States was interested only in defeating Spain to get Cuba, they said. It was Wildman who convinced Aguinaldo to establish a dictatorial government, supposed to be necessary in winning against Spain.

Believing the American’s words, Aguinaldo returned, to find that the Katipuneros already liberated much of Luzon and the Visayas islands. Aguinaldo regained his leadership in fighting the Spaniards and in the process surrendered strategic positions to the Americans.

*References: History of the Filipino People. Teodoro A. Agoncillo  
The Philippines: A Past Revisited. Renato Constantino*



## About the artist

Mideo M. Cruz is an active cross disciplinary artist-organizer in Southeast Asia. He initiated the art collective -UGAT Lahi in the 90's. He is a recipient of the 2003 Cultural Center of the Philippines thirteen artists award.

## About BANQUET

BANQUET is one of the three winners of the 2006 Ateneo Art Awards. It was staged at the Cultural Center of the Philippines on 2 February 2006 and at the Substation in Singapore on 13 April 2006. Art critic Lisa Ito writes "Rather than mimetically depicting the common notion of a banquet as a feast of plenty, Cruz chooses to unmask the poles of gluttony and deprivation existing in today's Third World societies." **FHR**

## BANQUET

Installation by Mideo M. Cruz

## 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.

## Literary

### THE STORM

Chikoy Pura\*

He's somebody's father, somebody's son  
He's somebody's daughter,  
somebody's mom  
At the right side of reason,  
at the wrong end of a gun  
In the street it's open season,  
in the eye of a deadly storm

Victims of hate of the terrorist state  
In the Order of Battle of a coward's list  
Unarmed and innocent, sentenced to  
death  
You stand for truth and justice, you're an  
imminent threat

Refrain:  
Wipe a mother's tear  
Cast away her fear  
Let your voice be heard  
And let justice be served

In the queen's deceit to plunder and steal  
In the butcher's game of shoot to kill  
In a tyrant's fear of men who're free  
And people sick with apathy

Thunder in the horizon, a crime to disagree  
Human rights violations, abuse in third de-  
gree  
It's sundown for decency, murder is the norm  
In these days of tyranny, whose side are you  
on?

(Repeat refrain)

\*Chikoy Pura is the frontman of legendary Pinoy rock band, The Jerks. A guitarist and vocalist, Pura also writes songs, many of which deal with inequities in Philippine society. "The Storm" was first sung by the artist at the launching of Hustisya on 15 September 2006 at the Claro M. Recto Hall, University of the Philippines, Diliman.