

**THE
2007
YEAR-END REPORT
ON THE
HUMAN RIGHTS SITUATION
IN THE PHILIPPINES**

KARAPATAN



2007
Year-End Report
on the
Human Rights
Situation
in the Philippines
(Updated Version)

KARAPATAN
(Alliance for the Advancement of People's Rights)

ON THE COVER



Luisa Posa-Dominado, along with Nilo Arado, chairperson of Bayan-Panay, was abducted in Iloilo on April 12, 2007 by unidentified elements of the military. She is a regional spokesperson of Selda, an organization of former political prisoners. Luisa and Nilo are still missing. Another companion, Jose Ely Garachico, survived a gunshot wound.



Jonas Joseph Burgos, who gives training to peasants on agricultural technology, was abducted in Quezon City on April 28, 2007 by four burly men who introduced themselves as policemen. He is the son of Jose Burgos, press freedom icon and pioneer of the alternative press during the Marcos dictatorship. Mrs. Edita Burgos, Jonas's mother, has brought his case to the UN Working Group on Enforced and Involuntary Disappearance.



Elizabeth Principe was arbitrarily arrested on November 28, 2007 by several men in a shopping center in Quezon City while getting the result of her medical laboratory tests. She is now among the more than 250 political detainees. Her husband, Leo Velasco, was abducted by six armed men on February 19, 2007 in Cagayan de Oro City. He is now among the 185 desaparecidos under the Gloria Macapagal-Arroyo government.



Dalmacio Gandinao, a peasant leader, was killed in front of family members in Misamis Oriental a day before UNSR Philip Alston arrived in the Philippines in February 2007. Barely a month after his daughter-in-law, Siche Bustamante, testified before Alston, she was shot dead by a lone gunman near an army detachment.

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Dangerous Regime, Defiant People

The year 2007 was a dangerous time for the Filipino people as state terror, impunity in human rights violations and general lawlessness gripped the nation. The government of Gloria Macapagal-Arroyo did little to stop the political killings and disappearances except take token steps to assuage local and international outcry. On the other hand, the year also signaled victories in the people's relentless struggle against political repression and state terrorism as the victims' clamor for justice and democracy was echoed here and abroad.

There was no clearer picture of the Arroyo government's iron-fisted mindset and utter disregard for human rights than the sight of full-battle-geared policemen and an armored personnel carrier smashing into a teargassed hotel lobby to "serve an arrest warrant" to a handful of rebel soldiers and civilians, and afterwards, the police herding in the journalists, broadcasters and camera crew, their wrists strapped like suspected criminals.

Amidst investigations of corruption and bribery committed by the First Family and its closest allies, blasts and bombings rocked the National Capital Region (NCR), apparently meant to instill fear among a restless populace and shift attention away from the GMA administration's anomalies. The initial results of police and military investigations of the bombings in the Glorietta mall and the Batasan (House of Representatives) complex were met with public skepticism and mistrust. Many believed that the incidents were instigated by the military or the national security watchdogs to deflect public attention from Arroyo's wrongdoings and the political crisis which her questioned presidency was mired in.

So alarming was the Arroyo government's propensity for political repression, including summary executions, that Philip Alston, United Nations Special Rapporteur (UNSR) for extrajudicial, summary or arbitrary executions, in his November report on the Philippines admonished that "As Commander-in-Chief of the Armed Forces, the President (GMA) must take concrete steps to put an end to those aspects of counter-insurgency operations which have led to the targeting and execution of many individuals working with civil society organizations." He strongly recommended that, "Extrajudicial executions must be eliminated from counter-insurgency operations."

In Congress, GMA was besieged with impeachment complaints on the basis of her involvement in scandalous billion-peso government contracts and million-peso bribery of legislators and local government officials right inside Malacañang Palace. Added to the corruption charges were gross violations of human rights.

On top of charges that she was a president without a mandate for having cheated in the 2004 presidential elections, her administration was again accused of rampant cheating in the May 2007 elections to get her senatorial slate elected. GMA's unpopularity was evidenced by the fact that most seats in the Senate were taken by opposition and independent candidates.

Instead of pursuing genuine reforms to get the country out of the economic and political crises, the Arroyo government persisted in bandying about positive economic statistics which did not reflect the extreme poverty that the majority of the people suffered. To ensure sustained backing from the George W. Bush administration, GMA assiduously followed Bush's lead in his global war of terror and imperialist globalization. She served proudly as Commander-in-Chief of the Armed Forces of the Philippines (AFP) which violated human rights and suppressed people's dissent with impunity to keep her regime in power.

The U.S.-Arroyo regime started Oplan Bantay Laya (OBL) or Oplan “Freedom Watch” in 2002 as its five-year national counter-insurgency blueprint. It failed to meet its targets in 2006 and was extended as OBL II in 2007. What OBL accomplished were the extrajudicial killings and enforced disappearances of hundreds of men and women from among political activists, peasants, workers, media persons, church people, lawyers and other civilians from various sectors of Philippine society.

OBL II promised to decimate the revolutionary forces of the Communist Party of the Philippines, New People’s Party and the National Democratic Front of the Philippines (CPP-NPA-NDFP) by 2010, the end of GMA’s current term.

Karapatan’s documentation of OBL’s record of violations from January to December 2007 showed the continuing state violence that the U.S.-Arroyo regime committed not only against the insurgent forces but also against civilians, especially those involved in the legal democratic movement.

Table 1
Violations by the Gloria Macapagal-Arroyo Government
 (January 1 to December 31, 2007)

	Incidents	Victims
Extra-judicial, summary or arbitrary execution	52	69
Frustrated political killing	13	36
Enforced or involuntary disappearance	18	24
Illegal arrest	47	164
Illegal detention	29	116
Torture	32	55
Physical assault and injuries	29	66
Threat, harassment and intimidation	85	2,194
Illegal search and seizure	15	104
Violation of domicile	16	126
Forcible evacuation or displacement	16	10,376
Use of school, medical, religious and other public places for military purposes	4	3,960

Based on reports gathered by Karapatan

Certainly, there were many more victims of violations of human rights because many more cases were either unreported to Karapatan or reported but remained undocumented, particularly in remote areas not reached by human rights workers. To Gloria Macapagal-Arroyo and her generals, these might just be numbers. However, behind the statistics were stories of real people – a person, a family, a community. These people did nothing wrong. They tried to right the wrong.

One gruesome case of abduction, torture and summary execution was that of **Alano Clerigo** last October 10. Witnesses saw him being forcibly taken by elements of the Scout Rangers Company, led by a certain Lt. Esguerra, under the 1st Scout Ranger Battalion. Clerigo, 34, was buried alive after he was burned, slashed, mauled and sexually mutilated. He was a member of a local peasant organization.

On March 10, barely a month after **Siche Bustamante-Gandinao**, 56, testified before UNSR Philip Alston on the summary execution of her father-in-law **Dalmacio Gandinao**, she was shot dead near an Army detachment in Guinalban, Salay, Misamis Oriental.

Siche was walking home from their farm with her daughter and husband and passed by the detachment of the 9th Infantry Battalion of the Philippine Army (PA). When they were 50 meters past the detachment, a gunman ran out and grabbed Siche's daughter, then turned and shot Siche in the forearms and chest. The assassin ran back towards the detachment. As Siche's husband and daughter vainly sought help from other people on the road, two men on a motorcycle approached the family from the direction of the detachment. Siche's daughter identified one of the men as the assassin, and the motorcycle as the one they had earlier seen parked in front of the detachment.

Siche's father-in-law Dalmacio Gandinao, 73, Bayan Muna provincial chair in Misamis Oriental and a local peasant leader, was killed in front of Siche and other family members on February 8, the day before Alston arrived in the Philippines. Like Dalmacio, Siche was a member of the Misamis Oriental Farmers' Association and Bayan Muna.

Maj. Gen. Jose Barbieto, 4th ID commander, made the ridiculous claim that Siche was a government "mole in the communist movement," and that she was punished by the NPA.

Jonas Joseph Burgos, 38, was having lunch in a restaurant inside a Quezon City Mall on April 28 when he was abducted by four burly men who introduced themselves as policemen. Witnesses said the abductors handcuffed Jonas and forcibly dragged him out of the restaurant and into a maroon Toyota Revo, a service utility vehicle. The Army's 56th IB was implicated in Jonas's disappearance after the license plate (TAB-194) of his abductors' vehicle was traced to one impounded at the Philippine Army headquarters in Norzagaray, Bulacan.

Jonas, an agriculture graduate of the Benguet State University, had been giving agri-technology training since 1998 to members of the Alyansa ng Magbubukid sa

Bulacan, a chapter of the KMP (Peasant Movement of the Philippines). He is the son of the late Jose “Joe” Burgos Jr., press freedom icon and pioneer of the alternative press during Marcos’s martial rule.

On several occasions, Edita Burgos, Jonas’s mother, castigated AFP Chief of Staff Hermogenes Esperon for his refusal to follow the court order for her to be furnished a copy of the Provost Marshal’s investigation report on the license plate. In November, the AFP grudgingly released the report but Mrs. Burgos said it was “incomplete.” She asked her lawyers to appeal for the release of the affidavits of the 16 officers and men who were investigated. The military continued to deny involvement in the abduction and claimed that the license plate was stolen from their camp.

Table 2
Political Prisoners (PPs)
 As of December 31, 2007

Region Where Detained	Total No. of PPs	Women	Minors	Arrested Under GMA
Cagayan Valley	1	0	0	1
Central Luzon	7	0	0	7
Southern Tagalog	17	1	0	17
NCR	119	2	0	79
Bicol	16	1	0	16
Western Visayas	8	0	0	8
Central Visayas	20	3	0	20
Eastern Visayas	11	7	1	11
Southern Mindanao	28	1	1	27
Socskargen	4	0	0	2
Western Mindanao	19	5	0	17
Caraga	1	0	0	0
Total	251	20	2	205

Of the political prisoners who remained in jail, 81.7% were arrested by the Arroyo government, most of them without warrants.

To divert public attention from the military, the Philippine National Police (PNP) presented three alleged NPA rebels who purportedly testified that the young Burgos was “punished” upon orders of a certain Delfin de Guzman, an alleged NPA officer. But it turned out that Delfin de Guzman was arrested in 2006 and had been in military custody since then. When this was exposed to the media, the police announced that there were actually two Delfin de Guzmans!

The PNP’s supposed NPA member-turned-government-witness, Emerito Lipio, was actually a transport sector leader who was abducted, tortured and disappeared in 2005. His former colleagues in PISTON (Pinag-isang Samahan ng mga Tsuper at Opereytor Nationwide) believed that he and his family were threatened and that he testified under duress.

Mrs. Burgos’s ordeal continued. The Commission on Human Rights (CHR) dismissed the Burgos case filed with them. Commissioner Dominador Calamba, who was assigned to the case, alleged that Mrs. Burgos refused to participate in the proceedings. She countered that instead of acceding to her request to testify after General Delfin Bangit, Calamba called on Bangit first then failed to call Mrs. Burgos to the stand.

Table 3
**Victims of Extra-Judicial, Summary or Arbitrary Execution
 under the Arroyo Government**
 (Annual Totals: January 21, 2001 to December 31, 2007)

Year	Total	Organized	Women
2001	99	35	11
2002	118	44	13
2003	123	32	14
2004	83	41	9
2005	187	101	14
2006	209	108	25
2007	69	34	11
Total	888	395	97

The political killings peaked in 2005 and 2006. There was an average of 16 killed each month or one every other day.

What can one say to a daughter who in a span of ten months, almost lost both her parents due to enforced disappearance? Lorena's father, **Leo Velasco**, was abducted in Cagayan de Oro City on February 19 by six armed men. The search that Lorena and members of Desaparecidos undertook has failed so far, thus Velasco is now among the almost 200 missing.

On November 28, Lorena's mother, **Elizabeth Principe**, was abducted by several men in a shopping center in Cubao, Quezon City. Custody had been admitted by the military. Velasco and Principe were both consultants in the stalled GRP-NDFP peace negotiations. They were among the more than fifty accused of rebellion, which case was dismissed by a Regional Trial Court based on a Supreme Court decision which found insufficient evidence to support the charge.

Table 4
**Victims of Enforced or Involuntary Disappearance
 Under the Arroyo Government**
 (Annual Totals: January 21, 2001 to December 31, 2007)

Year	Total	Organized	Women
2001	7	1	2
2002	9	3	2
2003	11	2	1
2004	26	10	5
2005	28	6	0
2006	78	26	16
2007	26	14	5
Total	185	62	31

The disappearances peaked in 2006 which was OBL I's final year and deadline of its targets. The monthly average of two per month in 2004-2005 tripled in 2006.

But no amount of state terrorism could paralyze a people who threw out of the presidential palace two abusive presidents. The national and international campaigns against extrajudicial killings and enforced disappearances gathered broad support which put pressure on the U.S.-Arroyo regime. The campaign ***Stop the Killings!*** took off in the second half of 2004, gained strength in 2005 and reaped strong support in 2006.

The U.S.-Arroyo regime had been put on the defensive since 2006 and more so in 2007 as national and international censure forced it to account for its human rights record. UNSR Philip Alston affirmed that the government's counterinsurgency program "encourage, if not facilitate" the killings. The Arroyo government and its AFP had to temporarily calibrate down the extrajudicial, summary or arbitrary executions (or extrajudicial killings for short) and enforced disappearances in 2007.

Table 5
2006/2007 Comparative Regional Data on Killings and Disappearances
 (January to July Figures)

Region	Extra-Judicial Killings		Enforced Disappearances	
	2007	2006	2007	2006
CAR	9	3	0	0
Cagayan Valley	4	6	2	0
Ilocos	1	2	0	1
Central Luzon	1	36	4	38
Southern Tagalog	6	16	2	6
Bicol	10	26	0	4
NCR	0	2	2	1
Eastern Visayas	10	13	1	2
Central Visayas	2	5	0	0
Western Visayas	3	3	3	2
Northern Mindanao	0	1	0	1
Caraga	5	6	4	0
Socskargen	1	7	0	0
Western Mindanao	3	4	3	2
Southern Mindanao	7	13	1	2
ARMM	1	0	0	1
Total	63	143	22	60
Women	10	18	5	11
Organized	29	72	10	19

Karapatan attributed the decrease in the extrajudicial killings and enforced disappearances in 2007 as compared to 2006 to the continuing protest against killings and disappearances and calls for justice by victims of human rights violations (HRVs), people's organizations, NGOs and individual human rights defenders nationwide. Of significance was the political pressure exerted by the international community, especially those who responded to the *Stop the Killings!* (STK) international campaign.

The Supreme Court played an additional deterrent role through decisions it made and steps it took, especially its coming out with the rule on the writ of *amparo*: "The petition for a writ of *amparo* is a remedy available to any person 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 writ shall cover extralegal killings and enforced disappearances or threats thereof."

In addition, the Philippine government was under pressure to make an accounting of its compliance with international human rights covenants because it would undergo the Universal Periodic Review (UPR) by the UN Nations Human Rights Council (UNHRC) working group in April 2008.

Another pressure point for the government was the set of conditions tied to U.S. military aid for 2008. The Arroyo government was required to make a show of its adherence to human rights covenants, while at the same time sustaining its full support to Bush's war of terror.

But will the political killings and disappearances ever stop?

ARROYO'S UNDECLARED MARTIAL LAW t hrOUGH Opl an Bant ay Laya

With the implementation of Oplan Bantay Laya the extrajudicial killings (EJK) and enforced disappearances (ED) continued, along with other gross and systematic human rights and IHL violations. OBL I and II took off from previous counter-insurgency programs implemented by the AFP under past administrations. While previous operational plans counted the number of cleared up villages suspected to be communist strongholds, OBL tallied dead bodies as its measure of success. The passage of the Anti-Terrorism Law (ATL), without doubt, compounded the problem.

Extra-Judicial Killings

Extrajudicial killings are reminiscent of the assassination of civilians under Operation Phoenix which the U.S. used in Vietnam. OBL targets not only the CPP-NPA-NDFP but also those identified with the legal Left, or what the AFP calls “sectoral front organizations.” OBL equates various people’s organizations with communist “front organizations,” and thus are targets of intelligence operations and “neutralization” with corresponding deadlines. AFP intelligence operations include “target research” or data gathering on target personalities i.e., leaders of mass organizations and alliances.

Intelligence officers pass on the data to a tactical combat unit that makes the “order of battle” – a list of priority targets for execution. This explains the continuing rise in the number of victims of gross human rights violations among members of progressive people’s organizations and party-list groups.

One of GMA’s highly placed and praised general, Jovito Palparan, Jr., played a significant role in implementing OBL. The whole campaign is under the supervision of the Oversight Committee on Internal Security of the President’s Cabinet.

In 2007, the brazenness by which extrajudicial killings were committed continued, the perpetrators having no fear of being caught much less brought to face the bar of Justice. Although there was a decrease in the activities by “death squads,” extrajudicial killings were carried out more brazenly by Army units in full battle gear in the far-flung villages.

Probably as brazen as the slayings were the lies peddled by the AFP, which maligned the victims to support military claims that they were “punished” by the NPA.

Table 6-A
Victims of EJK and ED under GMA's Presidency
 (January 21, 2001 to December 31, 2007)

Region	EJK	ED
CAR	30	1
Cagayan Valley	28	4
Ilocos	7	1
Central Luzon	137	62
Southern Tagalog	162	28
Bicol	126	12
NCR	39	6
Eastern Visayas	88	21
Central Visayas	21	0
Western Visayas	23	6
Northern Mindanao	7	1
Caraga	32	8
Socsksargen	22	4
Western Mindanao	34	10
Southern Mindanao	76	13
ARMM	56	8
Total	888	185
Women	97	31
Organized	395	62

One of the last to be killed in 2007 was broadcaster **Ferdinand Lintuan** who was slain on Christmas eve in Davao City. Karapatan listed four more journalists killed in 2007. According to the National Union of Journalists of the Philippines (NUJP) a total of 54 media practitioners have been killed under Arroyo's presidency.

Enforced Disappearances

Extra-Judicial Killings

Professor **Jose Ma. Cui**, 53, was shot dead on January 19 inside his classroom at the College of Engineering, University of Eastern Philippines, Northern Samar. Two armed men in ski masks entered the classroom at around 3:30 pm and shot Prof. Cui in the head and chest in front of his students who were taking their mid-term examination. He died on the spot. After the shooting, the gunmen escaped on a motorcycle towards a military camp, two kilometers from the university campus.

Prof. Cui had three children and was the chairman of the Employees' Association of the University of Eastern Philippines, the Confederation for Unity, Recognition and Advancement of Government Employees-Northern Samar (COURAGE-NS) and the Anti-Corruption Network (ActNow!). He was Secretary General of Katungod-Eastern Visayas, a regional chapter of Karapatan. He was also a founding member of the Bayan Muna party-list group in Northern Samar. In 2004, Cui was charged with libel by the former Commanding Officer of the 63rd Infantry Battalion, Colonel Manuelito Usi.

Peasant leaders **Arthur Orpilla** and **Dionisio Battad** were "salvaged" victims who were last seen alive on March 27, on their way to "report" to the 17th IB detachment in their village, Bagunot, in Baggao, Cagayan province. Orpilla's body was recovered

Enforced or involuntary disappearance is deemed as one of the cruelest of human rights violations.

Luisa Posa-Dominado and **Nilo Arado** were abducted by unidentified members of the military on April 12 in Oton, Iloilo. Posa, 52, was the Regional Spokesperson of Selda, an organization of former political detainees. Arado, 39, was the Regional Coordinator of Anakpawis, Chairperson of Bayan – Panay and a KMP National Council member.

Also with the two victims was **Jose Ely Garachico**, 50, Vice-Chair of Panay Alliance - Karapatan. Garachico survived a gunshot wound which entered through his neck and lodged bullet fragments in the upper lobe of his left lung.

The three were on board a pick-up truck when a green Mitsubishi van overtook them and forced Garachico, who was driving, to immediately pull off the road. A man from the green van smashed the front window of the pick-up truck and another man shot Garachico. Dominado was dragged into the green van while Arado into a maroon Starex sedan. A third man boarded Garachico's pickup truck and drove off.

Several court hearings on the writ of habeas corpus filed by the relatives of Dominado and Arado were scheduled and rescheduled. In one of the hearings that pushed through, the military denied that Dominado and Arado were in their custody. One of the respondents, Col. Mariano Perez of the Military Intelligence Battalion, did not appear in court because, according to his lawyer, he had been reassigned to Manila.

Leo Velasco, 55, a consultant to the peace negotiations between the GRP and the NDFP, was taken by six armed men in broad daylight on February 19 in Cagayan de Oro City.

Witnesses said Velasco was forced into a gray Mitsubishi L300 van with license plate LCV-513. The abductors used a black Toyota Revo backup vehicle with a license plate number ending in "692." Witnesses also said one of the armed men wore a sleeveless jacket with the marking "CIDG." The Criminal Investigation and Detection Group (CIDG) denied involvement of any of its agents. The military,

Table 6-B
Victims of EJK and ED Under Arroyo's Presidency
 by Sectoral and Multi-Sectoral Organizations
 (January 21, 2001 to December 31, 2007)

Organizations	EJK	ED
Bayan		
KMP	104	11
KMU	21	3
Anakbayan	13	3
Pamalakaya	7	2
Kadamay	7	0
LFS	5	1
Courage	3	0
PCPR	2	0
SCMP	1	0
Kalikasan	1	0
Piston	0	1
Secretariat	3	1
Karapatan		
Selda	1	2
Kasimbayan	1	0
Chapters	20	1
Other organizations	21	3
Party-list groups		
Bayan Muna	131	13
Anakpawis	49	8
Gabriela WP	2	0
Kabataan	2	0
Suara Bangsa Moro	1	2
Anak ng Bayan	0	1
NDFP consultants/staff	0	10

the next day, March 28, near Magapit Bridge in Lallo town; while Battad's decomposing remains was recovered on April 3 near the same spot. Orpilla's body bore multiple stab wounds, while Battad had a gunshot wound in the head.

The two victims, both in their mid-50s, were active leaders of Kagimungan, the local KMP chapter. They were also members of the Anakpawis partylist. They helped manage socio-economic projects in their village. Orpilla, a village councilor, was forced by the military to undergo CAFGU training and go on night watch in the village. Battad was required by the military to report to the detachment every day.

It will be remembered that **Joey Javier**, Kagimungan Chairperson was shot dead by men on motorcycles in October 2006, in the vicinity of the 17th IB detachment. (In May 2003, a soldier hacked Javier's left arm with a bolo. The latter was on his way home after working on the construction of their community radio station. The radio station of Radyo Cagayano was burned by the military in July 2006.)

Two weeks later, **Anthony Licyayo**, who succeeded Javier as Chairperson was killed by men in ski masks on his way to his farm. He was carrying his two-month old son when the incident happened. Within less than a week, Licyayo's successor, **Pedro France**, survived an attempted assassination. After a month, **Nelson Azucena** was gunned down in front of his house by soldiers led by Sgt. Marcelino Pascua.

In Negros Island on October 13, **Antonio Mercado** was killed by men believed to be members of a military death squad. Mercado was a member of the National Federation of Sugar Workers (NFSW). Earlier on August 8, another farmer, **Rodrigo Siacor** of Sitio Macatagal, Barangay Cambayubo, Calatrava was killed allegedly by military elements.

In Negros Occidental, three farmers, including a 72 year old, were killed in May. The commanding officer of the 11th IB, Lt. Col. Jess Managquil, claimed the peasants were NPA members killed in an encounter. The victims were **Bobby Quilo**, 20 years old, **Richard Sarillo**, 28, and **Benjamin Gelongga**, 72. All were civilians from the border towns of Isabela and Moises Padilla. They were rounded up by elements of the 11th IB and were massacred. Later, their bodies were presented as NPA casualties.

specifically the 4th Infantry Division, continued to deny the incident.

Velasco's case, along with eight other NDFP members who were abducted in 2006, was filed with the United Nations Working Group on Enforced or Involuntary Disappearance (UNWGEID). The other NDFP regional consultants still missing were **Rogelio Calubad**, **Philip Limjoco**, **Prudencio Calubid** and **Leopoldo Ancheta**. Their security and protection were guaranteed under the "Joint Agreement on Safety and Immunity Guarantees" (JASIG) entered into by the GRP and the NDFP.

The children were not spared

Aside from being orphaned by the killings and disappearances, children were traumatized by other violent acts committed by soldiers against their parents. They were among the tens of thousands displaced by military operations in 2007. In several cases, they were directly targeted by soldiers who either disregarded or were ignorant of their rights.

Hoping to boost their line that the NPA recruited minors, the military claimed that nine-year-old **Gracel Buya Galacio** was an NPA "child warrior" whom soldiers were forced to shoot because she was shooting at them with an armalite rifle. Gracel was shot dead on March 31 during an encounter between the 8th IB soldiers and the NPA in Barangay Kahayag, New Bataan, Compostela Valley. She was about to take a bath with a sibling in the river when the encounter occurred.

Gracel finished 2nd grade with honors. She wanted to be a nurse. Brig. Gen. Carlos Holganza, 101st Brigade commander, who showed to media a photo of Gracel with an M16 rifle beside her, had to retract his statement that she was a child combatant amidst strong protest from her family and villagers. A Commission on Human Rights Regional Office investigation confirmed that Gracel was a child killed in the crossfire. Holganza, however, turned to Gracel's father Gregorio, insisting he was the NPA member. On April 18, the Galacio family filed charges with the Ombudsman against 2nd Lt. Francis John Gabawa and the rest of his platoon.

On October 17, in Brgy. Gaang, Tuburan town, Cebu province, soldiers of the 78th IB interrogated an **eight-year-old girl** (name withheld) inside her classroom on the whereabouts of her parents who were suspected NPA rebels.

When the soldiers found out that the child lived with a couple who were not her relatives, they forced the latter to sign a document giving them custody of the child. The soldiers forcibly took the child and put her in the care of a rebel returnee. The girl was eventually rescued on October 31 by an aunt along with a human rights lawyer, journalist and several church people.

Table 6-C
Victims of EJK and ED Under Arroyo's Presidency
 by Sector and Special Groups
 (January 21, 2001 to December 31, 2007)

Sector/Special Group	EJK	ED
Peasant	416	108
Moro	56	9
Indigenous People	85	7
Worker	55	16
Children	59	4
Unborn	10	0
Urban Poor	40	7
Church	22	1
Youth & Students	23	10
Fisherfolk	21	3
HR worker	21	1
Govt employee	9	1
Entrepreneur	15	7
Teacher	9	0
Media	6	0
Lawyer	5	0
Others	24	6
Unclassified	12	5
Total	888	185

Abduction and torture

The Desaparecidos hailed one of the surviving victims **Lourdes “Nay Ude” Rubrico** for having the courage to get back at her captors by filing criminal and administrative charges with the Ombudsman.

Nay Ude, 63, chair of Ugnayan ng Maralita sa Gawa at Adhika (Urban Poor Association for Action and Aspiration or UMAGA Federation) was abducted by armed men who identified themselves as agents of the NBI (National Bureau of Investigation) on April 3, a Holy Tuesday. She was released on April 10 after she was forced to sign a paper agreeing to become a military “asset.”

The vehicle used by her abductors was a brown van with license plate XRR 428 which was traced to Army Major Darwin Sy. Nay Ude identified one of her abductors as Jimmy Santana, a military intelligence agent who frequented the provincial capitol. She was detained and interrogated for a week in an office of the 301st Air Intelligence and Security Squadron inside the Basa Air Base. Some 20 men took turns interrogating her, accusing her of being an NPA member. In protest, Nay Ude refused to take any food, and subsisted only on water. Inside the office where she was detained, Nay Ude was able to pilfer a “mission order” document which bore the name Capt. Angelo Cuaresma, of the 301st Air Intelligence and Security Squadron.

In Agdangan town, Quezon province, a **two-month-old baby boy** (name withheld) was among those abducted by soldiers of the 1st Special Forces of the 76th IB. On the evening of October 28, the soldiers swooped down on Sitio Slow and forcibly took a suspected NPA rebel Edwin Malapote, his daughter Edwinalyn Malapote-Reduta, son-in-law Primo Reduta and the baby, Malapote’s grandson. The soldiers also illegally arrested four of Malapote’s neighbors, accusing them of being NPA sympathizers, but released them the next day.

Illegal arrest, torture and arbitrary detention

Survivors have come forward to tell of their ordeal in the hands of their military abductors, in the hope that the perpetrators would be exposed, and maybe some of the victims saved. Their testimonies showed a pattern: an abducted victim was brought to a safehouse or military headquarters; information was extracted through tactical interrogation, which almost always included mental and physical torture. When the captors felt that they had broken the victim’s spirit, they tried to convert him/her to their side, offering money or freedom in exchange for help in the capture of another suspected leader or organizer.

Angie Ipong, 63, still languishes in a Western Mindanao jail two years and nine months despite appeals for her release for humanitarian reasons. She suffers from hypertension and was sexually molested during tactical interrogation.

Eduardo Serrano, 54, who was abducted in 2004 remains in custody at the Camp Crame Custodial Center after having been detained in a Mindoro jail. He was an NDFP consultant who like the others were covered by the Joint Agreement on Safety and Immunity Guarantees (JASIG) between the NDF and the Philippine government.

Pastor Berlin Guerrero of the United Church of Christ in the Philippines (UCCP), 46, was abducted on May 27. He remains in detention at Camp Pantaleon Garcia, Imus, Cavite. He was Secretary General of Bayan (New Patriotic Alliance) in Southern Tagalog.

“They brought me to a place unknown to me. Here, still handcuffed, men took turns interrogating me while hitting

my head with their fists and blunt objects. Layers of plastic bags were put on my head. My torturers would tighten the bag until I could no longer breathe. I passed out twice and pissed in my pants.” (From Guerrero’s account of his interrogation)

He said that his captors accused him of being a CPP official. They threatened that if he did not cooperate, they would abduct his wife and daughter and rape them in front of him. They forced him to give the passwords to his laptop computer and his e-mail, then proceeded to erase his “church, school and personal files and replace them with documents that belong to the so-called underground left.”

“After about 12 hours, they put me back in the van still handcuffed and blindfolded. They threatened to kill me, burn or bury me.” He said his captors called him “pastor-impostor.”

He was brought to Camp Pantaleon Garcia, the PNP Provincial Headquarters, at around 11:00 a.m. the following day. He was told that he was implicated in a 17-year-old murder case. It was evening when he was allowed to see his family, his lawyer and the Quick Reaction Team of Karapatan.

The abduction of Pastor Berlin Guerrero took place two months after a similar incident occurred on March 29 along the Aguinaldo Highway in Dasmariñas, Cavite. **Pastor Caloy Dela Cruz**, also of the UCCP, and his companion, a certain **Dodong**, were abducted while they were outside the seminary premises. Both were beaten up and released the next day.

Violent Dispersal of Protest Actions

The Calibrated Pre-emptive Response (CPR) instituted by the Philippine National Police (PNP) under GMA’s rule prohibits rallies and other protest actions in certain areas and without a permit. Along with Executive Order 464, which prevents government officials from testifying in Senate investigations, CPR comes in handy in stifling dissent. The police or the Office of the Mayor could arbitrarily come up with requirements and regulations to make it difficult if not impossible to get a permit.

After she “agreed” to spy on her colleagues in the organization, Jimmy Santana gave her a SIM card. After that she was taken out of detention and dropped off at the SM mall in Pala-Pala, Cavite. She had since filed criminal and civil charges against several AFP officers before the Ombudsman.

The same mode was employed by suspected state security forces who abducted 27 year-old **Gilbert Rey “Jing” Cardíño**, Bayan Muna’s Chairperson for South Cotabato and Regional Coordinator for the South Cotabato-Sultan Kudarat-Sarangani-General Santos provinces (SoCSKSarGen).

Cardíño was abducted on June 6 by five armed men who blocked the tricycle he was riding on and dragged him into an L300 van. Cardíño said his captors tortured him, threatened to harm his family, at the same time tried to force him to become a military asset, saying they will file charges against him if he refused. He was detained for three days, after which his abductors dropped him off along the Gen. Santos City-Marbel National Highway where commuters found him barefoot and dazed. Not long after he was freed, the CIDG included Cardíño among the activists they charged with rebellion.

On April 12 in Cebu, state forces abducted and tortured Bayan Muna Coordinator **Preciosa Daño**, 48, and Kabataan party-list’s **Beethoven Avila**, 28. The military later turned them over to the Regional Intelligence

Investigation Division in Toledo City, which in turn released them after activists picketed the PNP Cebu Central Command headquarters.

The latest to be surfaced in 2007 were **Juliet Fernandez**, a member of Gabriela Youth, and her husband **Manuel Pajarito** who were abducted in Eastern Visayas and arbitrarily detained by the military for seven months. Juliet was pregnant when arrested and had given birth in custody.

On the other hand, another NDFP consultant, **Emeterio Antalan**, 48, and his companion **Edgardo Friginal**, 41, were illegally arrested by military men in Talavera, Nueva Ecija on November 28. Witnesses said the two were manhandled and forcibly taken away. They were not presented to the media afterwards because they were badly bruised from beatings. Their families were able to visit the two in the Nueva Ecija Provincial Jail only on December 3. Like the other NDFP consultants, Antalan is covered by the JASIG between the NDFP and GRP and should not have been arrested.

But with or without a permit, the police could find a reason at the drop of a hat to disperse a rally with water cannons, metal shields and truncheons. Also, although carrying firearms is prohibited during crowd control, the police almost always carry guns openly or hidden in their pockets or under their shirts.

Mendiola Bridge, the symbol of people's protest against the dictator Marcos and later against Estrada, continues to be "a no-rally zone."

Mobilizations by the thousands were not dispersed but could be prevented from reaching its final destination like Mendiola Bridge, EDSA Shrine, Congress or the Senate. Small mobilizations, especially by the youth & students, workers and peasants get to be dispersed violently. Below are a couple of examples:

On January 17, around 150 of the League of Filipino Students (LFS), Student Christian Movement (SCM) and Anakbayan held a picket in front of the U.S. Embassy to call for the abrogation of the U.S.-RP Visiting Forces Agreement. Leaders of said organizations negotiated with the police and were allowed to stage a 15-minute program. But even before they started, around thirty policemen, headed by Col. Jojo Rosales of the Western Police District pushed the protesters away from the embassy and forcibly dispersed them. This resulted in the arrest of Gwendolyn Parong, a member of SCM-PUP chapter, and injuries to six protesters.

On June 12, around 150 members of Bayan (New Patriotic Alliance) from Southern Tagalog, together with other organizations, staged a picket also in front of the U.S. Embassy. It was in commemoration of Philippine Independence. As the protesters walked in front of the embassy, they were attacked by almost 100 policemen, also headed by Col. Jojo Rosales. Nine protesters were injured.

Urban Militarization

Military presence in urban communities in the National Capital Region (NCR) started as early as June 2006. Troop presence was initially reported in Manila (Pandacan, Sta. Mesa, Tondo), Quezon City (Bgy. Holy Spirit, Payatas, Batasan Hills, Bagong Silangan, Commonwealth) and Caloocan (Bagong Silang, Camarin, Tala). There were also

reports of military presence in cities like Valenzuela and Marikina, towns like Rodriguez (Montalban) and in other urban centers in the regions outside NCR.

Soldiers in the communities became very visible in November 2006, six months prior to the May 2007 midterm elections. The military occupied barangay halls and other civilian structures and turned them into temporary detachments. They imposed formal and informal curfews, made rounds of the communities in full battle gear. They conducted house-to-house visits and took census to gather information about the leaders and members of the different community organizations and progressive party-list groups. They held meetings and played the video presentation of the AFP book, *Knowing the Enemy*. In it, legitimate organizations in the democratic movement, such as those found in the communities, were tagged as fronts of the CPP-NPA. Likewise, the military accosted, arrested and interrogated residents and kept them in short-term detention. Residents were required to give their addresses and name of the organizations they belonged to. The military accused a number of the residents as members or supporters of the NPA.

In a media interview, AFP Public Information Officer Lt. Col. Bartolome Bacarro announced that “the AFP is dispatching for poll duties two Army infantry divisions, one Joint Special Operations Task Force, 11 Army infantry brigades, 29 Army infantry battalions, three Marine brigades and eight Marine Battalion Landing Teams, all of which could number more than 20,000 soldiers.”

Despite announcements from military authorities that troops would be pulled out a week before the May elections, the soldiers remained in the communities, albeit, discreetly. Although they took off their military uniforms, residents recognized the soldiers who roamed around polling precincts during election day.

In addition to the previously occupied communities, the soldiers were also stationed in communities in the cities of Taguig, Paranaque, Marikina and Las Pinas. It should be noted however that there were no definite and formal declaration as to the exact number of deployment and the communities where the military were deployed. There was also a visible presence but undetermined number of soldiers

Military intervention during elections

Hard pressed for justification of the military's presence in the urban centers, the Arroyo government and the AFP dished out several reasons, all of which were hardly believable. The Philippine Daily Inquirer (PDI) in an editorial stated: “...First, the AFP said the troops were doing civic action work like conducting medical and dental missions and repairing canals, roads and sidewalks. Then the AFP said that the deployment of troops was intended to counteract the move of the communist rebels to establish a foothold in the country's urban centers. Later it said that it was responding to requests for help from the barangays to fight criminality and maintain peace and order. Still later, it said the deployment was meant to train soldiers in case they are chosen for peacekeeping missions abroad.”

What was obvious though was that the soldiers—in squad and platoons—campaigns against progressive party-list organizations during elections. The residents in the communities, where the military positioned themselves, were organized and were active in anti-demolition and anti-poverty campaigns. These communities were likewise considered bailiwicks of the progressive party-list groups Bayan Muna, Anakpawis and Gabriela Women's Party.

Three solidarity missions by human rights advocates and church people were held prior to the elections

to investigate and also to support the demand of the people for the troops to pull out of the communities.

A team of foreign observers from the People's International Observers' Mission to the May 2007 Elections (People's IOM 2007) visited Tondo, Manila. The observers noted that:

"The military played an extraordinarily active role in the elections, overstepping its proper role in a democratic society. Military elements not only made their presence felt and caused fear among the residents but actively intervened in the conduct of voting.

"Prior to the campaign period and up to the days before the elections, the presence of military troops increased in certain provinces. They were also deployed in vote-rich urban poor communities of Metro Manila, a situation never before seen since the Marcos dictatorship was ousted.

"In many areas visited and months before the campaign period, the military conducted house-to-house visits ... The people were warned, with threat of reprisal, not to vote for these party-list groups, in the process sowing fear and terror."

in the Sta. Mesa area. Clearly, the deployment of 300 soldiers announced by the AFP in August was way below their visible number in the communities.

Like those in the communities, soldiers held forums in colleges to supposedly raise student awareness on the "dangers of communism." In these forums, speakers from the military tagged legitimate people's organizations as communist fronts, including youth and student organizations accredited in the university. Student organizations have monitored the so-called "educational" forum by AFP in schools like Pamantasan ng Lunsod ng Maynila (PLM) and the Philippine Women's University (PWU).

Affidavits submitted to Karapatan by students from the Philippine Normal University complained that their organizations like Kabataan Party-list organization were maligned by soldiers in front of other students. Military harassment on campus went as far as writing parents of student leaders to warn them of their children's involvement in "communist front organizations."

After the elections, the Civil Military Operations group of the Philippine Army was allowed by the Department of Education and the Commission on Higher Education to approach the Deans of Student Affairs of various schools in Metro Manila.

In a letter, for example, sent last July 2007 to the Dean of Student Affairs of Arellano University, Commanding Officer Ricardo Visaya of the Philippine Army sought partnership with school authorities "to exhort students to help the government in its campaign against insurgency."

Meanwhile, troops were "sent back" (although they never left) to the communities as a response to the "request of local government units," or, in the case of the PNP, as part of its "community integration" program.

The arbitrariness and brutishness of urban militarization were evidenced by the torture of 17 urban poor female and male youth. They were rounded up, interrogated and repeatedly hit with wooden sticks. To cover up the brutality, which actually aimed to sow terror in organized urban communities, they were accused of being members of out-of-school gangs, a menace to the community. They were

released the next day with no charges. A 21-year old who was with them was detained for three days.

Military Operations in the Countryside

Victims of militarization in Baggao, Cagayan Province, in the ESTOCASA area in Negros island and in Surigao del Sur were peasants and indigenous people who asserted their right to land and a decent life.

Men, women and children suffered from trauma brought about by militarization. This was among the findings of the peace and medical mission that went to the municipality of Baggao, Cagayan province from October 19 to 21, 2007. The heavy and brutal presence in the municipalities of Cagayan of military personnel, specifically soldiers of the 17th and 5th IB-PA, ruined the lives and livelihood of the people in the communities and inflicted fear on some of them.

The case of Baggao mirrored the situation in all the severely militarized villages all over the country. Here, one witnessed grave threat, coercion and intimidation, “fake surrender” and forced recruitment into paramilitary units, physical injury, looting, disappearances and killings. Military men brought back the Marcos-style “fake surrender,” as they gathered people in the communities, forced them to sign documents stating their surrender, or to carry placards with the words “we surrender” after which their photographs were taken and distributed to the media.

Forced evacuations, which were extensive during the early years of OBL I, returned to the northern Negros island, in particular the ESTOCASA area (Escalante, Toboso, Calatrava, San Carlos). The mayor of one of the towns acknowledged that around 586 families or a total of 2,931 individuals from three mountain villages were forced to leave their homes after Army troops launched massive operations against the NPA. The 303rd Brigade, through the Task Force North, deployed 12 Army Special Operation Teams in the mountain villages of ESTOCASA as part of its counter-insurgency operations.

On 21 November 2007, initial reports reached Karapatan that due to military operations around 2,000 indigenous people or 300 families walked some 15 kilometers from the mountain

Baggao, Cagayan

The situation in Baggao, Cagayan province was a typical scene in most of the villages in the different parts of the Philippines where people continued to struggle amidst a reign of terror.

Since July 2006, military operations were uninterrupted in the Province of Cagayan. Joint forces from the 21st and 17th Battalions, the 51st and 53rd Reconnaissance Companies, the 5th ID's Separate Rifle Company, PNP Regional Mobile Group and CAFGU elements zeroed in on the towns of Baggao, Gattaran, Lasam, Rizal, Piat, Gonzaga, Sta. Ana, Sta. Teresita, Sto. Nino and Allacapan.

Hard hit in these operations were members and officers of Kagimungan, a province-wide peasant organization in Cagayan and a member of a nationwide peasant federation, KMP.

Surrenders were faked and recruitment to CAFGUs were forced upon the men of the villages. Some 217 peasants were gathered by soldiers and ordered to “surrender” as NPA members. Residents who went to the gathering saw a list with names written and identified as NPA members. They were ordered to sign the attendance sheet which turned out to be a “proof that they have surrendered to the authorities.”

The residents were also forced to take an oath signifying their withdrawal of membership or support from Kagimungan. Or they were required to rescind their right to vote for the party-list of their choice lest they lose their lives or those of their family members.

Surigao del Sur

Indigenous groups in more than 12 mountain communities in Diatagon, Lianga and San Agustin in Surigao del Sur feared for their safety and lives as military troops started coming in on November 1. Around 500 soldiers from the 58th IB-PA, stationed themselves in the communities, sleeping in the residents' houses and in the Lumad literacy schools.

The military brought with them two 6x6 military trucks (one loaded with food supply), two armored personnel carrier (APC) and two 105 howitzer cannons.

A teenager, Ritchie Enot, was arrested by the military last November 12 while he was harvesting rattan in the forest. He was detained for four days. Enot was ordered to accompany the soldiers and serve as their guide in pursuit of members of the NPA.

Classes in seven primary Lumad literacy schools and in the Lumad High School in the villages of Diatagon, Lianga and San Agustin became irregular and more likely to be suspended because of ongoing massive military operation. The schools have more than 500 grade school pupils, 177 high school students and 27 teachers. The cluster of Lumad literacy schools was a two-time recipient of the National Literacy Award of the Department of Education and Culture.

The soldiers put up checkpoints, interrogated residents, demanded residence certificates and identification cards and imposed food blockade, among others.

villages to the evacuation centers in Diatagon, Lianga and Buhisan in Surigao del Sur. Deployment of military forces in the area started in the first week of November. Aside from illegal arrests, some residents were forced to act as guides in pursuit operations against the NPA. The military occupied villagers' homes and the physical structures of the Lumad literacy school set up by the Tribal Filipino Program, a non-government organization. These were the same communities subjected to military operations, including bombings, in 2005.

Legal Offensive Against Leaders of the Democratic Movement

As a feature of OBL, the government employs "legal offensive" against those it considered as enemies of the state. The Inter-Agency Legal Action Group (IALAG) supervised the systematic use of laws and the courts against leaders of militant organizations and party-list groups. IALAG also worked to protect and defend military personnel from complaints and court cases lodged against them by survivors and families of victims of human rights abuses.

Batasan 6

Rep. Crispin Beltran was finally released from arbitrary detention after the Supreme Court (SC) issued its decision on June 1. The SC dismissed the charge of rebellion against the **Batasan 6** – Representatives **Beltran** and **Rafael Mariano** of Anakpawis (AP - Toiling Masses); **Satur Ocampo**, **Teddy Casino** and **Joel Virador** of Bayan Muna (BM - The People First); and **Liza Maza** of the Gabriela Women's Party (GWP). Charged with them were six other leaders of the democratic movement – **Rafael Baylosis**, **Rey Casambre**, **Randall Echanis**, **Vicente Ladlad**, **Tita Lubi** and **Nathanael Santiago** – and scores of other social activists. Justice Secretary Raul Gonzalez was chided by the Supreme Court for the politically-motivated filing of the case.

In the midst of the 2007 election campaign in March, the PNP arrested Ocampo. He was in the Supreme Court to file a Petition for Certiorari and Prohibition that sought to nullify the fabricated murder charges and the warrant of arrest issued against him and others. The warrant was issued on March 6, 2007 for allegedly committing multiple murders in the province of Leyte in 1984, or 23 years ago.

In the early morning of March 19 the police dragged Ocampo out of the Manila Police District Headquarters (MPD-HQ), where he was temporarily detained, to board a private plane to Leyte. This was despite the judge's permission for Ocampo to be detained in Metro Manila pending a decision from the Supreme Court on his case. The police brought him back to the MPD-HQ in mid-afternoon after the flight turned back midway to Leyte. Ocampo was released on April 3 on orders of the Supreme Court and after posting a P100,000 cash bond. He had been detained for 18 days.

In a related case, two residents of Nueva Ecija who claimed to be members of the Akbayan party-list group filed simultaneously on February 16, two separate "complaints/petitions" with the Comelec against the party-list groups Bayan Muna, Anakpawis, and Gabriela Women's Party. The "complaints/petitions for special action" sought to disqualify the three progressive party-list groups from running in the May elections because they were "advocating violence."

The two widows likewise filed murder charges against Maza, Mariano, Ocampo and Casiño, whom they accused of having ordered their husbands' murders. There seemed to be no end to the harassment of the three party-list organizations.

Prof. Jose Maria Sison

The U.S.-Arroyo regime had to cut short its rejoicing on the arrest of **Prof. Jose Maria Sison** in The Netherlands when the District Court in The Hague on September 13 ordered his release from incommunicado detention. He had been detained for 17 days after he was arrested on charges of inciting to murder. The court ruled on the ground that there was no sufficient evidence to support the charge. It was categorical in its statement that there was no direct evidence to link Sison to the killing of Romulo Kintanar and Arturo Tabara in 2003 and 2004, respectively.

Subsequently, on October 3, the Court of Appeals in The Hague dismissed the petition of the Public Prosecutor's Office to put Sison back in prison, upholding the lower court's decision and rejecting the appeal by the public prosecutor to detain Sison pending further investigation of the said killings.

In the 117th Assembly of the **Inter-Parliamentary Union (IPU)** in Geneva, Switzerland in October, concern was expressed about the rebellion charges filed by the Arroyo government against the six progressive representatives from Bayan Muna, Anakpawis and Gabriela Women's Party, collectively known as Batasan 6. The concluded IPU investigation urged "the prosecution and judicial authorities not to proceed with any case on the basis of mere political consideration." The IPU likewise sought clarification from the government on Rep. Crispin Beltran's sedition case.

Among the resolutions of the IPU was to guarantee close monitoring of the murder charges against Satur Ocampo which were filed before the courts of Leyte and Nueva Ecija provinces. As part of the monitoring, the IPU tasked its Committee on Human Rights of Parliamentarians (CHRP) to report the proceedings of Ocampo's case to the IPU's 118th Assembly in Cape Town, South Africa in April 2008.

Representatives Ocampo and Liza Maza attended the IPU assembly and responded to questions from the CHRP, headed by Senator Sharon Carstairs of Canada with five other members from Algeria, Chile, France and the United Kingdom. The CHRP took into account the cases of political repression against Leftist party-list groups, which included extra-judicial killings and enforced disappearances of its local leaders and supporters.

Earlier in the year, the IPU took up the case of Batasan 6 in July 2006. Before that in April, the IPU sent a fact-finding mission to the Philippines led by Carstairs and joined by Anders Johnson, IPU Secretary-General, and Ingeborg Schwarz, IPU Secretary. The IPU was concerned about the arrest and detention of Rep. Crispin Beltran and the continuing harassment and persecution of the Batasan 5. The mission's statement said, "The delegation was unable to dispel the IPU's concern that the charges, which were broad and unsubstantiated and based on questionable evidence ... tend to demonstrate that non-legal motives may underlie the prosecution of the parliamentarians concerned."

The Dutch Court of Appeals further noted that the charge against Sison must be "seen in their political context and that the statements given by the various witnesses cannot be simply accepted as reliable." On its November 21 decision, C. M. Derijks, the Judge Commissioner of the Court of The Hague, formally closed the preliminary investigation of Sison on the charge of inciting to murder.

The U.S.-Arroyo regime's move against Sison constituted another impediment that GMA had thrown at the resumption of peace negotiations between the GRP (Government of the Republic of the Philippines) and the NDFP. It should also be noted that to date, 10 NDFP consultants and staff have been victims of enforced disappearance, with Leo Velasco as the latest to be abducted with no news of his whereabouts.

Anti-Terrorism Law or Human Security Act

Despite widespread criticism and moves to defer implementation, the new law – Anti-Terrorism Law hiding behind the benign-sounding Human Security Act or HSA – took effect on July 15, two months after the May mid-term elections. From being a political jargon, "terrorism" became a legal ambiguity.

Various groups questioned the law before the Supreme Court, and filed petitions for a temporary restraining order. In Congress, progressive party-list groups BM, GWP and AP filed a bill seeking to repeal the HSA.

Under ATL, common crimes already covered by the Revised Penal Code are defined as "terrorism." ATL adds that a terrorist act seeks "to sow and create conditions of widespread and extraordinary fear and panic among the populace, in order to coerce the government to give in to an unlawful demand." The vague definition may be expanded to other acts that can cover just anybody questioning or criticizing a policy, program or action of the U.S.-Arroyo regime. ATL took effect even without the required implementing rules and regulations. Its ambiguity gives the government undue advantage over its perceived political dissenters.

Those adjudged guilty will be meted 40 years of imprisonment, the equivalent of a life sentence, without the benefit of parole.

Among the dangerous features of the Anti-Terrorism Law are:

Surveillance. The ATL gives the state expanded rights to conduct surveillance against so-called “terrorist” organizations, suspected “terrorists” and those suspected of providing aid or support to suspected “terrorists.”

Warrantless arrest and indefinite detention. The ATL allows warrantless arrests. While detention for only up to three days without charges is allowed, it can be extended indefinitely in case of “actual or imminent terrorist attack.”

House arrest. Even in cases where evidence of guilt is weak, suspects may be placed under “house arrest.” Their right to travel may be restricted within a city or municipality. A court may also ban suspects from using a telephone, fax, internet, computer or any other means of communication.

Looking into and controlling bank deposits, accounts and records. The ATL allows the police/military to look into and control bank deposits, accounts and financial records of “suspected terrorists.” Such accounts may also be frozen or sequestered.

Martin Scheinin, the UNSR on the promotion and protection of human rights and fundamental freedoms while countering terrorism, cautioned in a statement issued on March 12:

“... I encourage the legislative branch of Government in the Philippines to reconsider this new counter-terrorism law which was approved by Congress in a Special Session of Parliament on 19 February 2007. It is my hope that there will be further debate which may result in the introduction of specific amendments or repeal of the entire Act by the new Congress elected this spring, since implementation of this law could have a negative impact on human rights in the country and undermines the rule of law.”

Arrest of Prof. Jose Maria Sison

Dutch authorities used deception when they arrested Prof. Sison on August 27, inviting him to the police station supposedly to give new information about a complaint he filed in 2001. Instead, the police arrested Sison and whisked him away without the knowledge of his lawyers. In the first week of his detention, Dutch authorities kept Sison incommunicado, denying him visits from his family and doctor, access to newspapers, television or radio, medication and warm clothing. Sison was detained for more than two weeks.

On the day of Sison's arrest, the police raided several Filipino residences and the NDFP International Information Office. The police broke down the doors of the residences/office and bodily pushed aside its occupants. They ransacked the apartments and confiscated computers, external drives, diskettes, CDs and hard files.

Ironically, the arrest came after the European Court of First Instance in Luxemburg annulled, on July 11, the inclusion of Sison in the European Council's 'terrorist' listing.

Prof. Sison is NDFP Chief Political Consultant in the peace negotiations with the GRP. He is also the Chairperson of the International League of Peoples' Struggles (ILPS). Members of the ILPS and progressive Filipino organizations in the Philippines and in different countries protested and demanded the release of Sison. They said Sison's arrest was an attack on peoples' struggles worldwide.

He specifically referred to the definition of “terrorism” as “an overly broad definition which is seen to be at variance with the principle of legality and thus incompatible with Article 15 of the International Covenant on Civil and Political Rights (ICCPR).”

Even as the U.S.-Arroyo regime was yet to charge anyone with violation of the ATL, Executive Secretary Eduardo Ermita and AFP Chief-of-Staff Hermogenes Esperon Jr. had begun calls to revive the Anti-Subversion Law, and integrate its provisions in the ATL. The Anti-Subversion Law, R.A. 1700, was repealed during Fidel Ramos’s presidency in 1992. The law had been called a Bill of Attainder because it punished individuals by mere membership in the Communist Party of the Philippines.

CRY FOR JUSTICE HEARD AND ECHOED AROUND THE WORLD

Even as the Philippine horizon remained shrouded with impunity for human rights violations, victims of rights abuses and people's organizations cleared a bit of blue sky as they gained small victories in the struggle to seek justice.

Hustisya and Desaparecidos: Thorns on the Side of a Repressive State

Victims' organizations like Hustisya and Desaparecidos made their marks as they waged the campaign to stop the extrajudicial killings and enforced disappearances.

Formed on September 15, 2006, **Hustisya** gathered the victims of various human rights violations, especially families of those killed, from the time Gloria Macapagal-Arroyo became president in 2001 to the present. "Tragedy maybe what brought us together, but being aware that we are not alone gives us a sense of power, a sense of certainty that we will attain justice," declared a victim's kin in one of Hustisya's gatherings.

The monthly gathering in Metro Manila averaged 50 to 100 in attendance, mostly victims and relatives who were based in the NCR and nearby towns. Similar activities were also held by victims' groups in some of the regions.

It is in these gatherings that martyrs and desaparecidos were given tribute and remembered, in songs and cultural performances, flower offerings and candle-lighting. As to be expected, Hustisya assemblies turned into tearful, emotion-charged gatherings where the families expressed their pain in testimonies. Erlinda Mañano, mother of slain Anakpawis coordinator, Isaias, once lamented: "It's sometimes sad to see new faces in our every gathering, because it means new victims."

Still, the activity served as a venue for a collective pledge to carry on the struggle for justice. Coming from different regions and having different backgrounds, they found strength and inspiration in each other as they shared a common goal to bring human rights violators to face the bar of Justice. They could also laugh together when telling one another stories recalling the good, happy and "crazy" times they had with the victims and one another.

Hustisya also tried to raise resources to help meet part of the material needs of the victims and families especially the children and those who have just been victimized.

“They may have the guns, but we have the numbers,” said Aldos Ramento, son of Iglesia Filipina Independencia Bishop Alberto Ramento, whose first death anniversary was commemorated in the Hustisya gathering in October.

For its part, **Desaparecidos** brought back to the public’s consciousness the phenomenon of enforced or involuntary disappearance, as it called for the opening of military camps and safehouses to surface the disappeared.

Formed in 1995, Desaparecidos unites the kin of the disappeared or those who have been missing since the martial law era, the succeeding regimes and up to the present. Desaparecidos supports families in their efforts to search for their missing kin, and helps deepen their commitment to pursue justice, not just for their relatives, but for all the desaparecidos.

Desaparecidos’ call for a stop to enforced disappearances got another boost from the campaign to surface Jonas Burgos. Mass actions led by the Burgos family became a new rallying point for families of desaparecidos and those from other sectors calling for a stop to enforced disappearances and for the victims to be surfaced.

At the August 30 commemoration of the UN Day for the Disappeared, Mrs. Burgos reiterated, “We shall continue to be a thorn on the side of this government until my son is found.”

Human Rights Lawyers: Frustrating OBL’s Legal Offensive

Lawyers and judges were among the victims of extrajudicial killing, other forms of violence and repression under the U.S.-Arroyo regime. There were 38 recorded cases of killings or attacks on lawyers and judges from the time GMA assumed the presidency. In 2007, three were killed and six were harassed.

In response to the spate of extrajudicial killings in late 2004 onwards, a number of lawyers formed the Council for the Defense of Liberties or Codal. When a state of emergency was promulgated through PP1017 and suppression of people’s protest intensified, the lawyers formed CLCL or Concerned Lawyers for Civil Liberties. In mid-September 2007, the National Union of People’s Lawyers (NUPL) was established. It brought together more than 150 lawyers from all over the country.

The Public Interest Law Center (PILC), Codal, NUPL, lawyers providing legal service to specific sectors like the peasants, trade unions and women, and other human rights lawyers countered OBL’s legal offensive. They defended the Batasan 6 and other leaders of the open democratic movement who were slapped with rebellion and murder cases. They trounced the prosecutors of the Department of Justice and got the rebellion charges dismissed and Reps. Crispin Beltran and Satur Ocampo released. PILC helped in the case of Prof. Jose Ma. Sison who was released from jail.

They took on cases of the victims of extrajudicial killing, enforced disappearance, illegal arrests and other gross violations of human rights. They defended political prisoners. They helped file writs of habeas corpus, amparo and habeas data. They joined the search for the abducted.

Lawyers were effective negotiators during rallies. They went to police precincts to get arrested rallyists out. They provided legal advice and/or were ready for quick reaction to international fact-finding or solidarity missions.

They joined the legal team of the International Observers' Mission to the May 2007 elections. They prevented the Commission on Elections from disqualifying the progressive party-list organizations. They were active in the campaign against election fraud and violence.

They assisted in drafting pro-people bills, resolutions and amendments in Congress and the Senate. They prepared legal briefs and attended Committee hearings when requested. They were active in educating the public in the anti-terrorism law and lately in the writ of amparo.

They are truly the people's lawyers.

International Solidarity: Igniting Global Outrage on GMA Rights Abuses

Solidarity with peoples from different countries was the key to the worldwide outrage created by the campaign to stop the killings and enforced disappearances in the Philippines. The International Campaign to Stop the Political Killings in the Philippines or **Stop the Killings!** culminated in the Permanent People's Tribunal in Europe, and in the U.S., the EcuVoice events and the U.S. Senate Hearing in Washington DC.

Karapatan credited the various organizations and solidarity groups abroad with the remarkable response to the national and international campaign that it launched to stop the extrajudicial killings and enforced disappearances in the Philippines. The compatriot organizations abroad, Philippine support groups, solidarity networks and members of Bayan International organized, coordinated and participated in fact-finding and solidarity missions to the Philippines. The missions visited areas where most of the violations occurred and talked to survivors and families of victims. Certainly, these missions played a significant role in opening the eyes of the international community to the harsh realities in the Philippines.

Their voices, along with those of the Filipino people, shattered the U.S.-Arroyo regime's illusion that it can eliminate the so-called enemies of the state through killings and repression without people's resistance and public outcry.

The groups informed the international community of their findings, disseminated information for the people to raise their voices and act as one against these violations. They likewise lobbied with their respective governments.

The people's protests worldwide echoed in the halls of international institutions that even the United Nations and the U.S. Senate could not fail to notice.

Karapatan Secretary General Marie Hilao-Enriquez, who was among those who testified in various international missions and hearings, described the usual reaction of foreigners: "They could not imagine the impunity, and they could not imagine the power of the military. More so, they could not imagine why these violations remain unresolved cases."

INCREASING INTERNATIONAL PRESSURE

Since it assumed power in 2001, the Arroyo government and its military arm addressed extrajudicial, summary or arbitrary executions in the country in two ways. On one hand, they refused to acknowledge the gravity of the abuses and the military's responsibility, insisting on referring to extrajudicial executions as "unexplained killings." On the other hand, they blamed everything on "communist purging."

Expectedly, they accused Karapatan's documentation and testimonies of survivors and victims' kin as "malicious" pro-leftist propaganda meant to destabilize Arroyo's rule. But Karapatan's reports had been validated by significant investigation reports both at local and international levels. These reports pointed to government accountability and military/police culpability.

The Alston Report, the U.S. Senate Hearing and the Permanent Peoples' Tribunal underscored in 2007 the fact that the Arroyo government was the no. 1 violator of human rights in the Philippines.

UN Special Rapporteur on extrajudicial, summary or arbitrary executions

Professor Philip Alston, an Australian law professor, is an independent expert appointed by the United Nations Human Rights Council (UNHRC) as Special Rapporteur on extrajudicial, summary or arbitrary executions. He also worked on the drafting of the Convention Against Torture. He visited the Philippines in February "to inquire into the phenomenon of extrajudicial executions."

He met with the Arroyo government's cabinet secretaries, legislators, senior officers of the AFP and PNP and other relevant agencies like the Human Rights Commission, Task Force Usig and Melo Commission. He also met with representatives of human rights organizations and families of victims, including witnesses and relatives of some 20 victims, whose cases were documented by Karapatan. Siche Bustamante-Gandinao was killed barely a month after she testified before Alston.

Alston issued a press statement, a preliminary report, orally delivered a longer report in a UNHRC meeting and finally submitted a complete report by the end of the year. In his earlier reports he pointed out that:

"The AFP remains in a state of almost total denial ... of its need to respond effectively and authentically to the significant number of killings which have been convincingly attributed to them."

International concern and support continued to broaden

The Filipino's perseverance in defending their rights and seeking fundamental changes to improve their condition gained positive international response. The year 2007 was witness to the overwhelming support the people received from the international community.

Rodolfo Stavenhagen, UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people paid a visit to the Philippines in February as a follow-up to his 2003 official visit. He lamented that most of his recommendations, especially on the subject of human rights, had not been acted upon by the Arroyo government.

The Public Services International (PSI) sent in February an international delegation of trade union representatives to look into the human rights situation of workers in the Philippines. The group, along with local union leaders, had a chance to dialogue with UNSR Philip Alston who was in the Philippines at that time.

PSI submitted a written statement to the Fourth Session of the UNHRC in March in which it "condemns in the strongest possible terms the spate of extra-judicial killings in the Philippines, which left over 800 people killed, including among them about 80 trade union activists."

Human Rights Now (HRN), a Tokyo-based international human rights organization, conducted in April

On the causes of killings, "The first cause has been variously described as 'vilification,' 'labeling,' or guilt by association.... The second cause is the extent to which aspects of the Government's counter-insurgency strategy encourage or facilitate the extrajudicial killings of activists and other 'enemies' in certain circumstances."

"... specially problematic is the fact that the impact has been to intimidate vast numbers of civil society actors ..."

Military officers and pro-Arroyo legislators promptly rebuked Alston's statements, saying his report was "incomplete, unfair and premature" and that Alston had been brainwashed by the Left and was the one "in a state of denial" for not believing the military reports.

In the UNHRC meeting, Alston tackled specific country situations, but singled out the Philippines (along with Sri Lanka) for special attention. He stressed that "uncooperative States were being rewarded and a system of impunity was being established in relation to the most serious concerns relating to extrajudicial killings" thus making a mockery of the UN special procedures to address such killings.

He directly attributed the extrajudicial killings on the AFP and its counter-insurgency program. "The necessary measures should be taken to ensure that the principle of command responsibility, as it is understood in international law, is a basis for criminal liability within the domestic legal order," Alston said. He pointed out that the military's "purge (by the CPP-NPA) theory can only be viewed as a cynical attempt to displace responsibility."

Among Alston's recommendations in his November report was to abolish the IALAG, to "refocus" the criminal justice system which he said in an earlier report to be "distorted," being more "focused on prosecuting civil society leaders rather than their killers." Towards reaching convictions in the cases in the courts, he proposed transparency in the actions by the CHR, Task Force Usig and the Supreme Court through the issuance of monthly reports.

He also called on the Philippine government to order all military officials to stop linking people's organizations to the armed groups, saying this "public vilification" had been

“accompanied by operational measures.” He called for transparency in the AFP’s “Order of Battle,” its purpose and who qualify to be included in such list.

Alston also advised that human rights must be taken in the context of the peace process. He recommended the operationalization of the Joint Monitoring Committee of the GRP and the NDFP, with its mandate under the Comprehensive Agreement on the Respect for Human Rights and International Humanitarian Law (CARHRIHL).

U.S. Senate Committee on Foreign Relations, Sub-Committee on East Asian and Pacific Affairs

A U.S. Senate hearing in 2007 further increased the pressure on the Arroyo government, as it threatened to hold back U.S. aid if the Philippine government did nothing about gross human rights violations.

The U.S. Senate hearing, which was called in March by Senator Barbara Boxer, Chair of the Sub-Committee on East Asian and Pacific Affairs of the Senate Committee on Foreign Relations, aimed to examine strategies to end the violence, specifically extrajudicial killings, in the Philippines.

Sen. Boxer, in her opening statement said, “It is important we (Americans) do not have blood on our hands. . . . If we are training the (Philippine) military with our hard-earned tax dollars, our concern about the military cannot be discounted . . . the war on terror cannot be used as an excuse to kill innocent civilians.” The Democrat senator from California, whose constituents included a great number of Filipinos, proposed that the Senate should “tie some strings around military aid.”

On August 1, 49 U.S. congresspersons, led by Congressmen James L. Oberstar (Minnesota, 8th) and Joe Pitts (Pennsylvania, 16th), presented a bipartisan letter addressed to Mrs. Arroyo. The letter expressed concern about the current human rights violations in the Philippines: “The Philippines is our friend and ally, but we cannot tolerate the unacceptable human rights conditions in the Philippines. Just this year, it is estimated that pre-election violence claimed at least 110 victims before the May 14th mid-term congressional elections.”

its own investigation of the extra-judicial killings and enforced disappearances in the Philippines.

The HRN fact-finding mission (FFM) was significant because it called on the Japanese government, the largest donor of Overseas Development Aid (ODA) to the Philippines:

To suspend the Yen loan agreement up until it recognizes the human rights situation and accountability mechanism has clearly improved.

To keep monitoring human rights situation and accountability mechanism in the Philippines, as well as conducting constructive dialogue on human rights with the Philippine government.

To raise the international community’s awareness of the issue through the UN Human Rights Council.

The International Federation of Human Rights Leagues (FIDH) sent a mission in August. The mission was composed of Frederic Ceuppens (Belgium), Mouloud Boumghar (France) and Nabeel Tajab (Bahrain).

Before its FFM to the Philippines, FIDH submitted a written statement to the UN Secretary General in February.

Among its recommendations were:

Ensure that a fully independent body be in charge of the investigation of the cases of extra-judicial killings;

Put in place a meaningful programme of protection of victims and witnesses before, during and after the inquiry and the judicial procedures;

Drop the charges of rebellion filed against civilians belonging to the opposition in the absence of meaningful evidence against them, and free Congressman Crispin Beltran;

Publicly and unambiguously denounce attacks on legal left groups, and put an end to allegations of collusion between peaceful opposition groups and illegal armed groups;

Ensure that there is no intrusion of the military into civil administration."

The Hong Kong Mission for Human Rights and Peace in the Philippines (HKMHRPP) conducted a follow-up mission last October 16-22, 2007. It was composed of 11 delegates including Hong Kong Legislator Leung Kwok-Hung:

The mission concluded that while the frequency of extra-judicial killings has decreased, there was no single conviction of a perpetrator. The non-conviction of those guilty, the mission observed, "adds to the culture of impunity that allows the killings and the disappearances to continue."

In November, the U.S. Senate Appropriations Committee set three conditions for its proposed additional US\$ 2 million military aid to the Philippines. They were largely based on Alston's report to the UN:

That the Philippine government is implementing the recommendations of the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions.

That the Philippine government is implementing a policy of promoting military personnel who demonstrate professionalism and respect for human rights, and is investigating and prosecuting military personnel and others who have been credibly alleged to have committed extrajudicial executions or other violations of human rights.

That the Philippine military is not engaging in acts of intimidation or violence against members of legal organizations who advocate for human rights.

But while the conditions set were an indirect recognition of the Philippine government's grim human rights record, the proposed funding was almost three-fold higher, from US\$11 million to US\$30 million for 2008.

Various leaders and members of faith-based, Filipino-American, labor, and human rights organizations wrote the U.S. Senate to reconsider its proposal. The group said that increasing the amount of aid to the Philippines would indicate U.S. support to the "Philippine military's counter-insurgency strategy cited by the UN Rapporteur as the cause of many serious human rights abuses."

Permanent Peoples' Tribunal: The Philippines in the UNHRC is an "intolerable offense to victims"

Victims, their families and people's organizations scored a key victory in March when the Permanent People's Tribunal issued a historic verdict finding President Gloria Macapagal-Arroyo and U.S. President George W. Bush, Jr. and their respective governments guilty of gross and systematic violations of human rights, economic plunder and transgression of the Filipino people's sovereignty.

Hustisya (Victims of the Arroyo Regime United for Justice), Desaparecidos (Families of Desaparecidos for Justice) and Bayan (New Patriotic Alliance) charged Gloria Macapagal-Arroyo, George W. Bush and their governments before the Permanent People's Tribunal (PPT) held in the Hague in the Netherlands with:

Gross and systematic violation of civil and political rights: extrajudicial killings, abduction and disappearances, massacre, torture;

Gross and systematic violation of economic, social and cultural rights;

Gross and systematic violation of the rights to national self-determination and liberation.”

“The Arroyo government may have prevented the truth from coming out when it blocked two impeachment trials, but it cannot deny the glaring evidences against her in an international court,” Evangeline Hernandez, Hustisya Convenor, pointed out.

The PPT issued its guilty verdict after a three-day hearing in March, when testimonies from victim-witnesses, victims' kin and expert witnesses were presented either in person or through video conferencing.

The PPT concluded that the violations against the Filipino people were “crimes against humanity” and were committed by the governments of Arroyo “with the support and full awareness of the government of George W. Bush.”

The PPT went as far as to denounce the inclusion of the Philippine government in the UN Human Rights Council, saying that it “undermines the credibility of the UN, it is an intolerable offense to the victims,” and is “a denial of the many well-documented denunciations of the dramatic violations of human rights” in the country.

PPT Session President François Houtart clarified that although the verdict may be legally nonbinding, it was nevertheless “morally binding.” The judgment was transmitted to the United Nations, International Court of Justice, European Parliament and various foreign governments to add more pressure on the U.S.-backed Arroyo government to stop the killings and other gross human rights violations.

At the **March 14 U.S. Senate hearing**, those who testified among others were human rights advocates Marie Hilao-Enriquez of Karapatan and Bishop Eliezer Pascua, UCCP General Secretary.

They were with a nine-member ecumenical delegation called the Ecumenical Voice for Peace and Human Rights in the Philippines or EcuVoice. The group traveled to Canada, the U.S. and Europe in March 2007 to seek audiences with churches, government bodies, and UN agencies. It was supported by the World Council of Churches, Lutheran World Federation, National Council of Christian Churches in the U.S.A. and United Church of Canada.

Various reports of EJK and ED here and abroad alarmed the **European Union** that it sent a Needs Assessment Mission, which stayed ten days in June.

Karapatan SecGen Marie Hilao-Enriquez, in the EU mission's dialogue with representatives of Philippine HR organizations implored the team to “ask the Philippine government to immediately stop the extra-judicial killings, abductions and forced disappearances, torture and other forms of human rights violations, including the revocation of all hit lists that target civilians and progressive people's organizations.” She also appealed to the mission to support the call for the resumption of peace negotiations between the GRP and the NDFP.

As an international tribunal, the PPT examines cases of violations of human rights and rights of peoples, independent from any State authority. The PPT's first session on the Philippines, which was held in 1980 in Antwerp, Belgium, tried the Marcos Dictatorship and found it guilty of political suppression, abuse of power and of violating the rights of the Filipino people.

GMA'S TOKEN MOVES TO ADDRESS THE KILLINGS

Pushed by extensive case documentations and the loud outcry here and abroad into admitting that there were killings going on, Arroyo tried to wriggle out of the situation by making token moves which she and her apologists passed on as adequate ways by which the state addressed the human rights violations. They repeated over and over again like a mantra the creation of Task Force Usig, Melo Commission, special courts and sufficiency of the witness protection program hoping that the public would believe their empty boast.

The two bodies created by the Arroyo government to investigate rights abuses – the Task Force Usig of the Philippine National Police and the Melo Commission – proved to be consistent with the public perception of being Malacanang's whitewash mechanisms. Arroyo formed these bodies and, almost right after, cleared and absolved the military from any involvement in the series of summary executions and other gross human rights violations. After more than a year, no soldier or policeman had been convicted of the killings and disappearances.

Task Force Usig

TF Usig only ended up blaming the NPA or classifying the violations as “unexplained killings.” It went to the extent of producing victims who gave “testimonies,” obviously under duress, in support of PNP claims.

TF Usig only succeeded in taking on the role of the AFP's “janitors,” covering up the military's human rights violations, cleaning up after the perpetrators, not running after them.

To TF Usig a case was solved when a suspect was arrested and charges were filed. It did not matter if the charges were proven correct or wrong. Fall guys could always take the blame. No serious nor comprehensive investigation was conducted. Instead, the TF issued statements obfuscating the reasons why activists and government critics were being killed and forcibly disappeared.

What the TF was good at was relentlessly destroying the credibility of Karapatan's HRV data. It tried to reduce the number of extrajudicial, summary or arbitrary killings by alleging that Karapatan included in its count those killed in encounters between government troops and the NPA guerillas or Moro fighters. It also cited the difference between media and Karapatan counts.

Karapatan reiterated that IHL violations were not included in the recorded cases of EJK. Also, each of the cases counted by Karapatan was accompanied by a factsheet, without which a case was held pending until verified. Media counts, on

the other hand, were less in number because their list was based on the news stories covered in their reportage. Karapatan's documentation comes from a nationwide network of human rights workers who specifically gathered data on HRVs.

Melo Commission

The Melo Commission did not earn the trust of the victims and their relatives because it had among its members the National Bureau of Investigation Director and the Chief State Prosecutor. Both were involved in repressive acts and neither one had done anything to help the victims and their relatives. The commission's initial act of interviewing the military generals first, its inability to guarantee the protection of witnesses and its initial pronouncements drove victims and witnesses away from fully participating in the commission's investigation. In addition, the commission ignored the guidelines on investigation proposed by Amnesty International.

The victims and their families welcomed the commission's report implicating the notorious retired Maj. Gen. Jovito Palparan, Jr. in the killings by command responsibility. However, they in the least were disappointed that the report deflected liability from Pres. Arroyo by stating that there was no national policy to which the killings and disappearances may be attributed. The commission also defined the chain of command as limited to AFP, disregarding the fact that Arroyo is its Commander-in-Chief.

The Melo Commission criticized Karapatan for not participating in its investigation despite the fact that the latter was a source of the data and information that the commission used. The commission could not understand why Karapatan took the side of the victims and their families who refused to attend the hearings without being assured of their safety and protection and an impartial investigation.

Making a mockery of JMC Submissions

From June 2004 to August 2007, the number of complaints received by the Joint Secretariat (JS) of the GRP-NDFP Joint Monitoring Committee (JMC) reached 2,971. Of these cases, 1,180 were filed against the GRP and 1,791 against the NDFP. These complaints were allegedly violations of the provisions of the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL), signed by the GRP and NDFP.

In terms of human rights violations, the cases involving the GRP were overwhelmingly violations of civil and political rights, violations against property and violations of sectoral or specific rights. In terms of International Humanitarian Law (IHL), almost all the cases against the GRP were violations against civilians. A significant number of these complaints included extrajudicial killings and disappearances.

On the other hand, almost all of the complaints submitted against the NDFP came from the Armed Forces of the Philippines' Judge Advocate General Services (JAGS). It was learned that initial assessment of the complaints would reveal that they were invalid in form and substance. An overwhelming number of those submitted contained insufficient information, much less evidence, to substantiate the general and formulaic allegations. Others were only duplicate submissions of previously filed cases or were outside the coverage of CARHRIHL and its provisions.

More so, most of the alleged incidents were in connection with the armed conflict and involved legitimate military targets such as GRP military, police and paramilitary personnel. The filing of bare, unsubstantiated and self-serving complaint forms was considered a nuisance and a clear attempt to undermine the mechanism of the JMC and to use it contrary to its objective of helping address violations of human rights and international humanitarian law.

GMA's Failed Posturing

President Arroyo was outspoken in her rebuke of Myanmar's military rule. But the human rights record of her government and her undeclared martial law were no better than those of the Burmese military dictatorship.

As a lawyer pointed out, if she really wanted to stop the killings, she could easily issue a directive as AFP's Commander-in-Chief that the killings should stop once and for all, and that any provincial and battalion commander would be dismissed if a political killing occurred on his watch. Instead, the GMA government took no action against Palparan. The special courts created have so far failed to convict any perpetrator. One case resolved by a special court was the one filed by a victim's family against the military which was dismissed due to lack of evidence since it was difficult to get people to testify for fear of military and police reprisal.

SUPREME COURT “UNSHEATHES” ITS “UNUSED POWER”

They who seek to remain in the safety of the sidelines when human rights are under assault shall be condemned by history into irrelevance. – Chief Justice Reynato Puno

The Supreme Court (SC) led by Chief Justice Reynato S. Puno, in contrast to GMA’s Malacanang and Raul Gonzalez’s Department of Justice, took three significant steps in 2007 to address the dismal human rights situation in the country and, in particular, the extrajudicial killings.

SC Ruling on the Rebellion Case Against the Batasan 6 et al

The Supreme Court instructed the Regional Trial Court to dismiss the rebellion case against the Batasan 6 and other leaders of the legal democratic movement including Prof. Jose Maria Sison. The SC decision, penned by Justice Antonio Carpio, stated:

“We find merit in petitioners’ doubt on respondent prosecutors’ impartiality. 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.”** Petitioners raised this issue in their petition, but respondents never disputed the veracity of this statement. This clearly shows prejudgment, a determination to file the Information even in the absence of probable cause.

A Final Word

“The obvious involvement of political considerations in the actuations of respondent Secretary of Justice and respondent prosecutors brings to mind an observation we made in another equally politically charged case. We reiterate what we stated then, if only to emphasize the importance of maintaining the integrity of criminal prosecutions in general and preliminary investigations in particular, thus:

[W]e cannot emphasize too strongly that prosecutors should not allow, and should avoid, giving the impression that their noble office is being used or prostituted, wittingly or unwittingly, for political ends, or other purposes alien to, or subversive of, the basic and fundamental objective of observing the interest of Justice evenhandedly, without fear or favor to any and all litigants alike, whether rich

or poor, weak or strong, powerless or mighty. Only by strict adherence to the established procedure may the public's perception of the impartiality of the prosecutor be enhanced."

National Consultative Summit on Killings and Disappearances

In July, Chief Justice Puno convened the National Consultative Summit on Extra-Judicial Killings and Enforced Disappearance, which was attended by other SC Justices, government leaders, officers of the AFP and PNP, as well as representatives of the church, academe, human rights organizations and other non-governmental organizations.

In his keynote speech, the Chief Justice lamented "the frailties of our freedom, the inadequacy of our laws if not the inutility of our system of justice" shown up by the extrajudicial killings and enforced disappearances. He pointed out that it was time for the judiciary to "unsheath 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."

The workshops in the Summit came up with recommendations on judicial reforms in the areas of preliminary investigation, powers of the public prosecutor, writ of habeas corpus and modes of discoveries, among others.

Writ of Amparo

As a direct result of the summit, the High Court issued the Rules on the Writ of Amparo on September 25. SC Justice Adolfo Azcuña said in a forum on the writ that "for the first time in 20 years, the Court felt the need to implement and enforce" the writ, because legal remedies to protect human rights were no longer sufficient, in the wake of killings and disappearances. The writ of amparo could provide a special remedy through the issuance of orders either for temporary protection, inspection, production of documents and witness protection.

Writ of Amparo

The military, through the writ of amparo, was compelled to surface and eventually release **Ruel Muñasque** on November 7 and **Luicito Bustamante** on November 14 by virtue of two separate petitions for their protection.

On October 30, the Muñasque family, through Attys. Tirsendo Poloyapoy and Emiliano Deleverio, filed a petition for writ of amparo.

Judge Abraham Ramas of Regional Trial Court (RTC) Branch 18, at a November 7 hearing, ordered the military to produce the victim in court. Muñasque was released from military custody on the same day.

Muñasque, 33 is a UCCP leader based in Mindanao. He and **Roger Morales** were abducted on October 24, 2007 at a checkpoint manned by elements of the 53rd IBPA in Dumalinao, Zamboanga del Sur. They were blindfolded, handcuffed and were brought to a camp where they were physically tortured. The military released Morales at dawn the following day but kept Muñasque in detention until the court order was issued.

Bustamante, a 21-year old peasant, was accosted with two other young men while distributing campaign leaflets on October 27 by a paramilitary group task force, led by a Noli Obat, at a checkpoint in Paquibato District, Davao City. Obat accused Bustamante of being an NPA member and detained him. Physical examination upon his release showed

cigarette burns and other torture marks on Bustamante's body. He narrated how his captors beat him up, wrapped a plastic bag on his head and made him eat his feces.

Several other petitions for the writ of amparo were filed in court. These included the cases of missing University of the Philippines students Karen Empeño and Sherlyn Cadapan, brothers Raymond and Reynaldo Manalo, who escaped from military custody and sought court protection against further military harassment. Writs had also been issued for urban poor leader Lourdes Rubrico, who was abducted by the military, recruited to be a military agent and later released; Romulos Robiños and Ryan Supan, both missing after being abducted in Pampanga; as well as for Romulos's sister, Leny, and his mother, Lolita, who both feared military violence; and Edwin Malapote and several members of his family. Hearing for the Robiños case started in November at the Court of Appeals.

Six out of nine habeas corpus petitions for victims of enforced disappearances were denied by the courts in 2007. The most prominent case, the habeas petition for UP students Sherlyn Cadapan and Karen Empeño and peasant Manuel Merino, was denied by the Court of Appeals (CA) in June, a year after their abduction in Bulacan by suspected military men. The CA decision said the petition failed to prove that the military had custody of the victims. It proposed an investigation of the cases by the CHR or other agencies.

On October 24, the effectivity date of the writ of amparo, the Cadapan and Empeño families filed a petition for the writ asking for the release of the two victims, inspection of military camps and production of documents. The respondents included no less than President Arroyo, AFP Chief Hermogenes Esperon, Jr., and several Army officers. However, Assistant Solicitor General Amparo Tang opposed the inspection order, cautioning that it would jeopardize national security.

A major positive development on the amparo was the Dec. 27 decision by the 2nd Division of the Court of Appeals (CA) implicating retired Maj. Gen. Jovito Palparan Jr. and his subordinates, MSgts. Rizal Hilario and Donald Caigas, in the abduction and arbitrary detention of the Manalo brothers. The CA scolded the Provost Marshall of the 7th ID for its "superficial" investigation into the abduction of the Manalos and subsequent exoneration of the CAFGU men involved.

Brothers Raymund, 26, and Reynaldo, 38, were abducted Feb. 14, 2006 in San Ildefonso, Bulacan. In their amparo petition, the two testified how they were tortured and interrogated by the said officers and CAFGU men. They were brought from one military camp and safehouse to another, where they were interrogated, did forced labor and beaten up. According to them, they saw several abduction victims, including Cadapan and Empeño. The brothers also testified how Palparan ordered them to tell their parents not to join protest rallies.

Hilario, also known as Sgt. Rolly Castillo, was earlier implicated in the assassination of Hacienda Luisita labor leader, Ricardo Ramos, in October 2005. The CA ordered the National Defense Secretary to confirm in writing the present assignment of Hilario and Caigas, and to produce

the list of all personnel, whether military or civilian, who attended to the Manalos during their captivity. The CA decision thus paved the way for filing charges against Palparan, the notorious “Butcher of Mindoro.”

But the writ of amparo is only remedial, and may not prove to be preventive. Also, it might be taken lightly since the penalty for defiance is mere contempt. In addition, the writ has been amended to extend to 10 days the period by which a respondent military or police agency may respond.

This early, the Executive Branch of the Arroyo government countered the Supreme Court’s measures when GMA issued Administrative Order 197, which provided for safeguards of military secrets and against interference in military operations. She also wanted this to be institutionalized by Congress.

In addition, the actions or non-action of government institutions practically negate the positive developments due to the writ of amparo:

The 9th Division of the CA hearing the amparo petition of Lourdes Rubrico issued a blanket decision saying Arroyo could not be made respondent to any petition because she enjoys presidential immunity during her incumbency.

An order for a five-day inspection in five military camps issued by the CA in the Romulos Robiños case was botched when officials of the CHR failed to lead the search teams. Instead of including members of the victim’s party in all the search teams, the CHR proceeded to inspect the camps on their own. The Romulos family and Karapatan team were able to enter only Fort Magsaysay.

Filing by the military or police of petition for writ of amparo against human rights and people’s organizations.

CONCLUSION

Impunity and lawlessness under Arroyo's corrupt and repressive regime

Despite national and international outcry, the extrajudicial killings, enforced disappearances, intense militarization and other violations of human rights continue in the Philippines. An unpopular president whose mandate is under question continues to choose military might over genuine reforms. An avid ally of George W. Bush in the Asean, she is as eager as before to carry out the U.S.'s "war on terror," which in reality is a blueprint for state terrorism.

However, more and more people are becoming informed, as shown by an IBON Foundation (Ibon) survey in October where 85.5 % of survey respondents said that they were aware of the extrajudicial killings. Among them, 59.8 % believed that the military were behind the killings.

An Ibon survey also showed that 75% of total respondents said they did not believe there was truth to the government's pronouncement that the economy was improving. Similarly, half of the total respondents said their livelihood had worsened compared to 2006.

The 6.1 % increase in the growth domestic product in the 3rd quarter of 2007 compared to the same period in 2006 was due mainly to increased household spending, likely fuelled by the entry of remittances from the country's nine million OFWs. Ibon pointed out that "the Net Factor Income from Abroad, which includes OFWs remittances, grew by a record 25.2% during the survey quarter, the highest since 2003."

The recent survey on poverty by the GMA government's own agency further proved that the economic growth being touted by Malacanang did not benefit the majority of the people. The number of families defined as poor increased from 4M in 2003 to 4.7M in 2006, meaning that one out of every three Filipinos was considered poor. The same survey showed that the number of families who did not earn enough to buy the minimum food requirement rose from 1.7M in 2003 to 1.9M in 2006, meaning that 12.2M Filipinos were not eating enough.

There goes Arroyo's economic hype which could not save her regime's plunging popularity. A Pulse Asia survey in October showed 42% of Filipinos viewed Arroyo as the most corrupt president in Philippine history.

Gloria Macapagal-Arroyo's creation of an "investigative" commission and one task force after another, might have deflected responsibility from her but failed

to make anyone accountable, let alone be convicted for the human rights violations. From the execution, investigation up to the prosecution, state security forces who perpetrated the killings and disappearances seemed untouchable.

This impunity and the overall failure of the criminal justice system had also engendered lawless elements to commit crimes with wanton disregard for human lives.

In the countryside, wide scale and massive military deployment and operations wreaked havoc on the lives and livelihood of the village folk. Counterinsurgency operations were brought to Metro Manila and other urban areas, with soldiers taking over barangay halls, as their detachments. Military presence was felt through harassment and intimidation of organizers and members of progressive people's organizations. Village officials had a choice limited to "cooperate or face the fate of those who defy the military."

How long can we be safe under Arroyo?

The UN Human Rights Council should never have approved the membership of the Government of the Republic of the Philippines (GRP). How can such a human rights violator be in a body of nations supposed to protect human rights worldwide?

The political strife, the resulting breakdown of law and order, and assault on human rights will persist under this corrupt and fascist regime. Karapatan maintains that, to end impunity and improve the human rights situation in the country, the only recourse is to replace the Philippine president.

People's Demands

The Filipino people persist in advancing their political, civil, economic, social and cultural rights. They are relentless in asserting their sovereignty, unwavering in protecting their patrimony and defending whatever is left of democracy in their land.

The people's demands are clear. There should be a stop to the extrajudicial killings. The disappeared should be surfaced and political prisoners freed. The national policy Oplan Bantay Laya, which embodies the US-Arroyo regime's state terrorism, should be junked immediately.

The Arroyo government and the military should cease from blocking indemnification to the victims of human rights violations by the Marcos dictatorship. The corrupt President should keep her fingers off the recovered Marcos dollars which have been granted by courts to the victims of Marcos's martial rule.

Foreign governments are called upon to stop all military aid to the Philippines since it is used to stifle and crush legitimate dissent. The corrupt GMA central

government should be stripped of other forms of aid and cooperation by redirecting them to people's and other non-governmental organizations and the local government units. This will ensure that such aid will reach its real beneficiaries and not the pockets of national government leaders and traditional politicians.

Global struggles to stop the state terrorism of the Arroyo and Bush regimes, especially those being waged by activists in the U.S. and the Philippines, should be supported by internationalists from all parts of the world. Such struggles are part of the anti-imperialist campaigns against globalization and war.

After suffering through more than six years of Gloria Macapagal-Arroyo's reign, the people cannot take three more years of abuse. GMA has to go. If necessary, she should be driven out of Malacanang by another exercise of people power.

Only then can any headway be expected in achieving some meaningful change in the interest of the majority of the Filipino people.

THE RULE ON THE WRIT OF AMPARO

SEC. 1. *Petition.* – The petition for a writ of *amparo* is a remedy available to any person 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 writ shall cover extralegal killings and enforced disappearances or threats thereof.

SEC. 2. *Who May File.* – The petition may be filed by the aggrieved party or by any qualified person or entity in the following order:

- (a) Any member of the immediate family, namely: the spouse, children and parents of the aggrieved party;
- (b) Any ascendant, descendant or collateral relative of the aggrieved party within the fourth civil degree of consanguinity or affinity, in default of those mentioned in the preceding paragraph; or
- (c) Any concerned citizen, organization, association or institution, if there is no known member of the immediate family or relative of the aggrieved party.

The filing of a petition by the aggrieved party suspends the right of all other authorized parties to file similar petitions. Likewise, the filing of the petition by an authorized party on behalf of the aggrieved party suspends the right of all others, observing the order established herein.

SEC. 3. *Where to File.* – The petition may be filed on any day and at any time with the Regional Trial Court of the place where the threat, act or omission was committed or any of its elements occurred, or with the Sandiganbayan, the Court of Appeals, the Supreme Court, or any justice of such courts. The writ shall be enforceable anywhere in the Philippines.

When issued by a Regional Trial Court or any judge thereof, the writ shall be returnable before such court or judge.

When issued by the Sandiganbayan or the Court of Appeals or any of their justices, it may be returnable before such court or any justice thereof, or to any Regional Trial Court of the place where the threat, act or omission was committed or any of its elements occurred.

When issued by the Supreme Court or any of its justices, it may be returnable before such Court or any justice thereof, or before the Sandiganbayan or the Court of Appeals or any of their justices, or to any Regional Trial Court of the place where the threat, act or omission was committed or any of its elements occurred.

SEC. 4. *No Docket Fees.* – The petitioner shall be exempted from the payment of the docket and other lawful fees when filing the petition. The court, justice or judge shall docket the petition and act upon it immediately.

SEC. 5. Contents of Petition. – The petition shall be signed and verified and shall allege the following:

- (a) The personal circumstances of the petitioner;
- (b) The name and personal circumstances of the respondent responsible for the threat, act or omission, or, if the name is unknown or uncertain, the respondent may be described by an assumed appellation;
- (c) The right to life, liberty and security of the aggrieved party violated or threatened with violation by an unlawful act or omission of the respondent, and how such threat or violation is committed with the attendant circumstances detailed in supporting affidavits;
- (d) The investigation conducted, if any, specifying the names, personal circumstances, and addresses of the investigating authority or individuals, as well as the manner and conduct of the investigation, together with any report;
- (e) The actions and recourses taken by the petitioner to determine the fate or whereabouts of the aggrieved party and the identity of the person responsible for the threat, act or omission; and
- (f) The relief prayed for.

The petition may include a general prayer for other just and equitable reliefs.

SEC. 6. Issuance of the Writ. – Upon the filing of the petition, the court, justice or judge shall immediately order the issuance of the writ if on its face it ought to issue. The clerk of court shall issue the writ under the seal of the court; or in case of urgent necessity, the justice or the judge may issue the writ under his or her own hand, and may deputize any officer or person to serve it.

The writ shall also set the date and time for summary hearing of the petition which shall not be later than seven (7) days from the date of its issuance.

SEC. 7. Penalty for Refusing to Issue or Serve the Writ. – A clerk of court who refuses to issue the writ after its allowance, or a deputized person who refuses to serve the same, shall be punished by the court, justice or judge for contempt without prejudice to other disciplinary actions.

SEC. 8. How the Writ is Served. – The writ shall be served upon the respondent by a judicial officer or by a person deputized by the court, justice or judge who shall retain a copy on which to make a return of service. In case the writ cannot be served personally on the respondent, the rules on substituted service shall apply.

SEC. 9. Return; Contents. – Within seventy-two (72) hours after service of the writ, the respondent shall file a verified written return together with supporting affidavits which shall, among other things, contain the following:

- (a) The lawful defenses to show that the respondent did not violate or threaten with violation the right to life, liberty and security of the aggrieved party, through any act or omission;
- (b) The steps or actions taken by the respondent to determine the fate or whereabouts of the aggrieved party and the person or persons responsible for the threat, act or omission;

- (c) All relevant information in the possession of the respondent pertaining to the threat, act or omission against the aggrieved party; and
- (d) If the respondent is a public official or employee, the return shall further state the actions that have been or will still be taken:
 - (i) to verify the identity of the aggrieved party;
 - (ii) to recover and preserve evidence related to the death or disappearance of the person identified in the petition which may aid in the prosecution of the person or persons responsible;
 - (iii) to identify witnesses and obtain statements from them concerning the death or disappearance;
 - (iv) to determine the cause, manner, location and time of death or disappearance as well as any pattern or practice that may have brought about the death or disappearance;
 - (v) to identify and apprehend the person or persons involved in the death or disappearance; and
 - (vi) to bring the suspected offenders before a competent court.

The return shall also state other matters relevant to the investigation, its resolution and the prosecution of the case.

A general denial of the allegations in the petition shall not be allowed.

SEC. 10. *Defenses not Pleaded Deemed Waived.* — All defenses shall be raised in the return, otherwise, they shall be deemed waived.

SEC. 11. *Prohibited Pleadings and Motions.* – The following pleadings and motions are prohibited:

- (a) Motion to dismiss;
- (b) Motion for extension of time to file return, opposition, affidavit, position paper and other pleadings;
- (c) Dilatory motion for postponement;
- (d) Motion for a bill of particulars;
- (e) Counterclaim or cross-claim;
- (f) Third-party complaint;
- (g) Reply;
- (h) Motion to declare respondent in default;
- (i) Intervention;
- (j) Memorandum;
- (k) Motion for reconsideration of interlocutory orders or interim relief orders; and
- (l) Petition for *certiorari*, *mandamus* or prohibition against any interlocutory order.

SEC. 12. *Effect of Failure to File Return.*— In case the respondent fails to file a return, the court, justice or judge shall proceed to hear the petition *ex parte*.

SEC. 13. *Summary Hearing.*— The hearing on the petition shall be summary. However, the court, justice or judge may call for a preliminary conference to simplify the issues and determine the possibility of obtaining stipulations and admissions from the parties.

The hearing shall be from day to day until completed and given the same priority as petitions for *habeas corpus*.

SEC. 14. *Interim Reliefs.*— Upon filing of the petition or at anytime before final judgment, the court, justice or judge may grant any of the following reliefs:

(a) *Temporary Protection Order.*— The court, justice or judge, upon motion or *motu proprio*, may order that the petitioner or the aggrieved party and any member of the immediate family be protected in a government agency or by an accredited person or private institution capable of keeping and securing their safety. If the petitioner is an organization, association or institution referred to in Section 3(c) of this Rule, the protection may be extended to the officers involved.

The Supreme Court shall accredit the persons and private institutions that shall extend temporary protection to the petitioner or the aggrieved party and any member of the immediate family, in accordance with guidelines which it shall issue.

The accredited persons and private institutions shall comply with the rules and conditions that may be imposed by the court, justice or judge.

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

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

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

The inspection order shall specify the person or persons authorized to make the inspection and the date, time, place and manner of making the inspection and may prescribe other conditions to protect the constitutional rights of all parties. The order shall expire five (5) days after the date of its issuance, unless extended for justifiable reasons.

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

The motion may be opposed on the ground of national security or of the privileged nature of the information, in which case the court, justice or judge may conduct a hearing in chambers to determine the merit of the opposition.

The court, justice or judge shall prescribe other conditions to protect the constitutional rights of all the parties.

(d) *Witness Protection Order.* – The court, justice or judge, upon motion or *motu proprio*, may refer the witnesses to the Department of Justice for admission to the Witness Protection, Security and Benefit Program, pursuant to Republic Act No. 6981.

The court, justice or judge may also refer the witnesses to other government agencies, or to accredited persons or private institutions capable of keeping and securing their safety.

SEC. 15. Availability of Interim Reliefs to Respondent. – Upon verified motion of the respondent and after due hearing, the court, justice or judge may issue an inspection order or production order under paragraphs (b) and (c) of the preceding section.

A motion for inspection order under this section shall be supported by affidavits or testimonies of witnesses having personal knowledge of the defenses of the respondent.

SEC. 16. Contempt. – The court, justice or judge may order the respondent who refuses to make a return, or who makes a false return, or any person who otherwise disobeys or resists a lawful process or order of the court to be punished for contempt. The contemnor may be imprisoned or imposed a fine.

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

The respondent who is a private individual or entity must prove that ordinary diligence as required by applicable laws, rules and regulations was observed in the performance of duty.

The respondent who is a public official or employee must prove that extraordinary diligence as required by applicable laws, rules and regulations was observed in the performance of duty.

The respondent public official or employee cannot invoke the presumption that official duty has been regularly performed to evade responsibility or liability.

SEC. 18. Judgment. — The court shall render judgment within ten (10) days from the time the petition is submitted for decision. If the allegations in the petition are proven by substantial evidence, the court shall grant the privilege of the writ and such reliefs as may be proper and appropriate; otherwise, the privilege shall be denied.

SEC. 19. Appeal. – Any party may appeal from the final judgment or order to the Supreme Court under Rule 45. The appeal may raise questions of fact or law or both.

The period of appeal shall be five (5) working days from the date of notice of the adverse judgment.

The appeal shall be given the same priority as in *habeas corpus* cases.

SEC. 20. *Archiving and Revival of Cases.* – The court shall not dismiss the petition, but shall archive it, if upon its determination it cannot proceed for a valid cause such as the failure of petitioner or witnesses to appear due to threats on their lives.

A periodic review of the archived cases shall be made by the *amparo* court that shall, *motu proprio* or upon motion by any party, order their revival when ready for further proceedings. The petition shall be dismissed with prejudice upon failure to prosecute the case after the lapse of two (2) years from notice to the petitioner of the order archiving the case.

The clerks of court shall submit to the Office of the Court Administrator a consolidated list of archived cases under this Rule not later than the first week of January of every year.

SEC. 21. *Institution of Separate Actions.* — This Rule shall not preclude the filing of separate criminal, civil or administrative actions.

SEC. 22. *Effect of Filing of a Criminal Action.* – When a criminal action has been commenced, no separate petition for the writ shall be filed. The reliefs under the writ shall be available by motion in the criminal case.

The procedure under this Rule shall govern the disposition of the reliefs available under the writ of *amparo*.

SEC. 23. *Consolidation.* – When a criminal action is filed subsequent to the filing of a petition for the writ, the latter shall be consolidated with the criminal action.

When a criminal action and a separate civil action are filed subsequent to a petition for a writ of *amparo*, the latter shall be consolidated with the criminal action.

After consolidation, the procedure under this Rule shall continue to apply to the disposition of the reliefs in the petition.

SEC. 24. *Substantive Rights.* — This Rule shall not diminish, increase or modify substantive rights recognized and protected by the Constitution.

SEC. 25. *Suppletory Application of the Rules of Court.* – The Rules of Court shall apply suppletorily insofar as it is not inconsistent with this Rule.

SEC. 26. *Applicability to Pending Cases.* – This Rule shall govern cases involving extralegal killings and enforced disappearances or threats thereof pending in the trial and appellate courts.

SEC. 27. *Effectivity.* – This Rule shall take effect on October 24, 2007, following its publication in three (3) newspapers of general circulation.

