

PHILIPPINES

UNLAWFUL KILLINGS BY MILITARY AND PARAMILITARY FORCES



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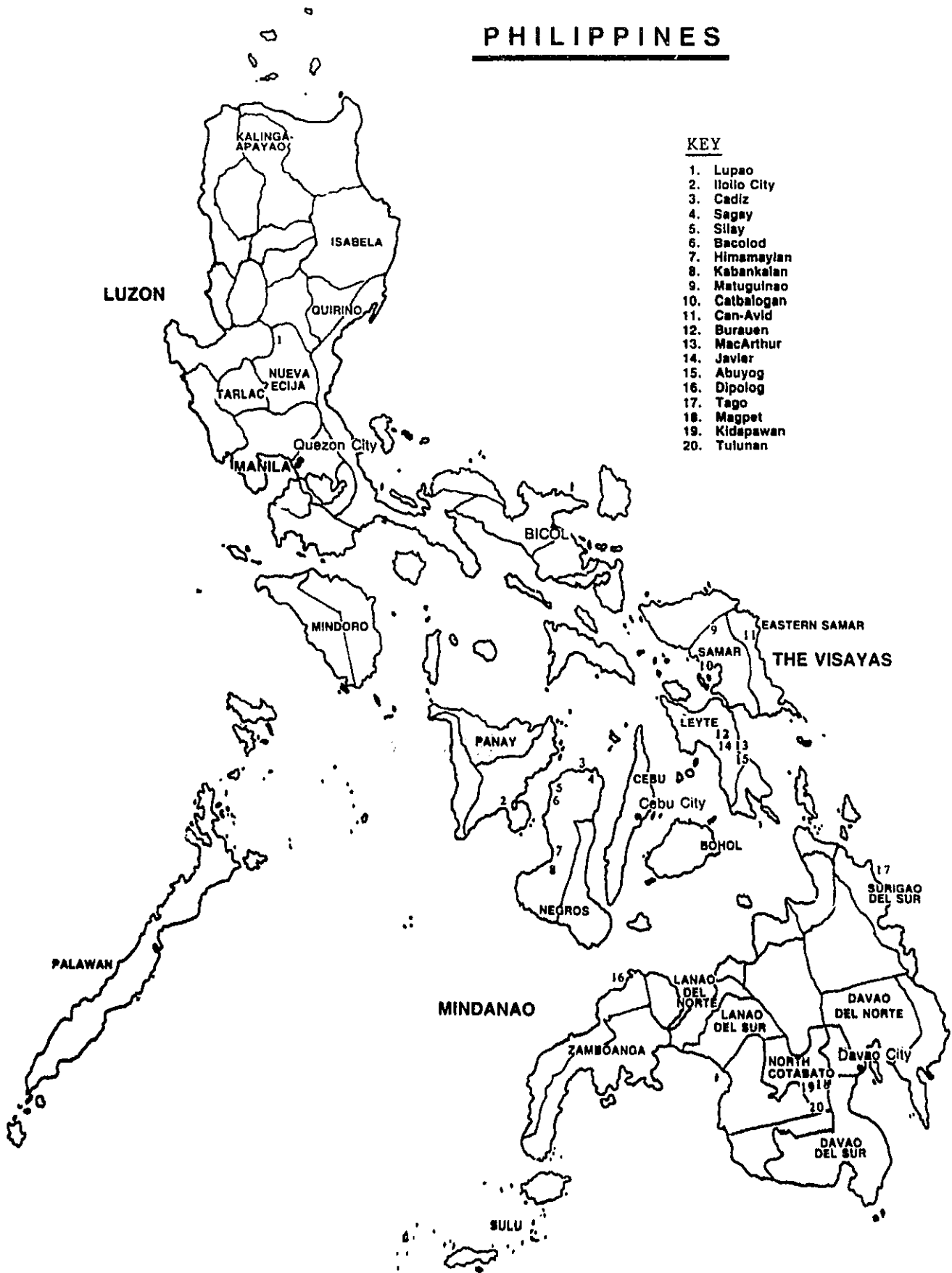
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PHILIPPINES



KEY

1. Lupao
2. Iloilo City
3. Cadiz
4. Sagay
5. Silay
6. Bacolod
7. Himamaylan
8. Kabankalan
9. Matuguiño
10. Catbalogan
11. Can-Avid
12. Burauen
13. MacArthur
14. Javier
15. Abuyog
16. Dipolog
17. Tago
18. Magpet
19. Kidapawan
20. Tulunan

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PHILIPPINES: UNLAWFUL KILLINGS BY MILITARY AND PARAMILITARY FORCES

1. INTRODUCTION

Since mid-1987 political killings carried out by government and government-backed forces in violation of the law have become the most serious human rights problem in the Philippines.

Most of the victims have been suspected supporters of the communist insurgency, many of them members of legal left-wing organizations. They have been killed by members of the regular military and police forces, the paramilitary Civilian Home Defense Forces (CHDF) or community-based civilian groups commonly known as "vigilantes", acting with government support.

Amnesty International uses the term "extrajudicial executions" to describe such unlawful and deliberate killings carried out by governments or with their acquiescence. These killings take place outside any legal or judicial framework. They are to be distinguished from accidental or "panic" killings by law enforcement officials and from killings by members of the security forces for personal reasons or because of intoxication. Extrajudicial executions are also distinct from killings that occur as a direct consequence of a violent engagement between parties to an armed conflict--for example, the killing of civilians in cross fire or during assaults on defended military positions. Amnesty International would consider as an extrajudicial execution, however, the deliberate killing during armed conflict of any individual who is manifestly helpless, whether a civilian singled out for his or her political sympathies or a combatant incapacitated by wounds or who has surrendered.

Extrajudicial executions in the Philippines have gone largely unpunished. The Aquino Government has responded swiftly to many highly publicized killings by setting up task forces to conduct official inquiries. Many less well-known cases have been handled by the Commission on Human Rights or its predecessor, the Presidential Committee on Human Rights. Official investigations, however, have rarely led to prosecutions for many reasons, including fear or intimidation of witnesses, lack of cooperation from the military and an apparent lack of impartiality by military courts which by law have jurisdiction over all cases involving soldiers and police. To Amnesty International's knowledge, as of the end of January 1988, not a single military or police officer had been convicted and sentenced for such political killings--or indeed any other serious human rights offence--since the Aquino Government came to power in February 1986.

Suspected supporters of the insurgency are not the only victims of political violence in the Philippines. The New People's Army (NPA), the armed wing of the Communist Party of the Philippines, has claimed responsibility for many "executions" of soldiers and police and others in the name of "revolutionary justice". Secretary of Local Government Jaime Ferrer was assassinated in July 1987. During the 1988 local elections, many candidates

were shot dead, sometimes the victims of the NPA, sometimes of political rivals. Other deaths have been attributed to right-wing military rebels and locally powerful "warlords" who may or may not have the support or protection of military and civilian authorities.

Many of the political killings, directly or indirectly involving the government, with which Amnesty International is concerned have taken place in the context of political violence in which other deaths have occurred. Many, for example, have followed NPA raids or assassinations.

Killings or other crimes by opposition groups, however, can never be used to justify unlawful retaliatory killings by agents of the government. Members of the security forces are entrusted with responsibility for protecting citizens and for upholding and defending the legal system. If members of the security forces themselves commit unlawful political killings, then others may feel that they too can act with impunity.

Amnesty International believes that uncompromising respect for the protection of human rights on the part of the government is essential to halt the escalation of political violence. Effective investigations into reports of human rights violations and punishment of offenders might break the cycle of killings and reprisals for which many parties, including the NPA, have been responsible.

Amnesty International therefore calls on the Aquino Government to publicly reaffirm the commitment it made when it came to power to protect human rights. It urges the government to demonstrate that it has the political will to respect human rights by enforcing existing safeguards against the commission of human rights violations. And it urges the government to analyse why investigations into reported extrajudicial executions have largely failed to result in the prosecution of those responsible.

Amnesty International has other concerns in the Philippines in addition to extrajudicial executions. It has issued several urgent appeals on behalf of campaigners for left-wing political parties who "disappeared" after allegedly having been abducted by military personnel following the May 1987 Congressional election. There have been occasional reports of torture. Amnesty International has been concerned about moves in the Philippines Congress to restore the death penalty which was abolished in February 1987 when the new Constitution was ratified. Extrajudicial executions constitute, however, the most prevalent human rights violations within Amnesty International's mandate in the Philippines today.

2. AMNESTY INTERNATIONAL AND THE PHILIPPINES

Amnesty International works on behalf of prisoners. It advocates the immediate and unconditional release of "prisoners of conscience"--men and women detained for their political, religious or other conscientiously-held beliefs or because of their ethnic origin, sex, colour or language, who have not used or advocated violence. It campaigns for fair and prompt trials for all political prisoners and against torture and other cruel, inhuman or degrading treatment, including the death penalty. Its mandate does not extend to many of the issues of concern to human rights groups in the Philippines, such as "militarization", forced population removals or injuries to civilians resulting from strafing or bombing

during counter-insurgency operations.

Amnesty International's assessment of the human rights situation in the Philippines, in terms of its mandate, is based on information collected from a wide variety of sources, including notarized affidavits, court documents and press reports. All information is evaluated at the organization's International Secretariat in London. In addition, Amnesty International has sent three missions to the country since President Aquino took office, during which representatives conducted interviews with a wide range of government officials, military officers, members of human rights groups and victims of human rights violations and their families.

The first two of these missions, in May and December 1986, produced strong evidence that the Aquino Government's commitment to the protection of human rights and the establishment of legal safeguards had led to major improvements. There was little evidence of the kind of systematic and sophisticated torture prevalent under the previous government, and prisoners were quickly brought before a judge and charged or else released. There appeared to be almost no incommunicado detention. Isolated cases of extrajudicial executions were reported, and one leading left-wing leader, Rolando Olalia, chairman of the trade union federation Kilusang Mayo Uno (KMU), was assassinated in November 1986, his killing linked to the military. On the whole, however, reports of human rights violations were far fewer than in previous years.

But by the time of Amnesty International's third mission in July 1987 there had been a sharp escalation in political violence, and the government appeared increasingly unwilling or unable to persuade its security forces to respect the safeguards it had promoted so vigorously a year earlier, particularly when members of the military and police were targets of the NPA assassination squads. Amnesty International believes that the Aquino Government's commitment to human rights was an important factor in the improvements in 1986. The re-emergence in 1987 of a pattern of widespread human rights violations committed by the military and paramilitary groups operating under their command, in apparent response to violence by opposition groups of both left and right, suggests that a reaffirmation of that commitment is needed.

2.1 Missions Under the Marcos Government

The findings of recent Amnesty International missions must be set against those of the missions conducted during the Marcos years, one in late 1975, during the period of martial law, and a second in late 1981, after martial law had been lifted.

The primary objective of the 1975 mission was to study the issue of the detention of political prisoners under martial law, and the delegates were given access to over 100 prisoners. They also met President Marcos, the then Secretary of National Defense Juan Ponce Enrile and the then Commander of the Philippines Constabulary Fidel V. Ramos, as well as other civilian and military officials. In their interviews with prisoners the delegates found evidence of widespread and systematic torture by the security forces. Amnesty International made a number of recommendations based on their findings to the Philippines Government, which were later published, together with government comments on the mission's findings, in Report of an Amnesty International Mission to the Philippines 1975 (AI Index PUB 64/00/77). Among other things, Amnesty

International recommended that all prisoners held on political charges be tried by civil courts rather than military tribunals; that as a safeguard against torture, families of prisoners be notified of their detention and allowed regular visits, beginning within 72 hours of arrest; that prisoners be allowed unrestricted access to lawyers; that the right to habeas corpus be restored; and that the practice of taking prisoners to secret places of interrogation called "safehouses" be discontinued. The government, in response, challenged Amnesty International's research methods and denied that torture was widespread.

A second mission was conducted in November 1981. Delegates noted at the time that although the number of political detainees had fallen substantially since 1975, more people were "disappearing" and becoming victims of apparent extrajudicial executions. Delegates were able to meet some Ministry of National Defense officials, although efforts to meet the then Minister, Juan Ponce Enrile, were unsuccessful. They also met church officials, lawyers and jurists and victims of human rights violations.

In Report of an Amnesty International Mission to the Republic of the Philippines 11-28 November 1981 (AI Index ASA 35/25/82), Amnesty International noted that the security forces and members of authorized paramilitary groups had systematically violated the rights of prisoners, including both civilians and captured armed opponents, and that irregular paramilitary forces operating with official sanction had committed gross violations of human rights, including political killings. They found that procedures for filing complaints against members of the security forces were deficient; that procedural safeguards regulating the treatment of people in custody had been systematically ignored with apparent impunity, that the independence of the judiciary had been severely compromised and that torture, evident in 1975, was still systematically being used.

As a result of these findings Amnesty International recommended that the Philippines Government conduct immediate inquiries into reports of human rights violations and review the procedures for investigating abuses and prosecuting and punishing their perpetrators. It recommended that the government guarantee detainees certain basic rights. It recommended that the practice of holding detainees in "safehouses" be immediately discontinued and that the right to habeas corpus be fully restored. And it urged that the activities of some of the irregular paramilitary groups acting on the apparent authority of the regular armed forces be investigated.

2.2 Amnesty International and the Aquino Government

Many of the safeguards recommended in Amnesty International's 1981 report were instituted by the Aquino government within the first weeks of its coming to power (see Section 4 below). Amnesty International welcomed these initiatives, and in May 1985 a mission led by the then Secretary General of Amnesty International, Thomas Hammarberg, visited Manila to discuss with President Aquino, Chief of Staff of the Armed Forces General Fidel V. Ramos, Minister of National Defense Juan Ponce Enrile and other senior government officials further safeguards that might be implemented.

In a memorandum to the government following that visit entitled Human Rights Safeguards in the Philippines (appended as Annex 2), Amnesty International noted that the institution of such safeguards was not sufficient

to guarantee that human rights would be protected; they also had to be enforced. The memorandum acknowledged that while there appeared to be determination on the part of many officials of the Aquino government to ensure that massive human rights violations did not occur again, there was also a determination to end the insurgency, by reconciliation if possible and by force if necessary.

Reconciliation, the memorandum stated, must involve justice for victims of past human rights abuses, and the use of force must be accompanied by respect for the life and dignity of the human person. It concluded on a note of optimism that much of the necessary foundation had been laid in the Philippines to make the prevention of human rights abuse possible.

A second mission in December 1986 during a ceasefire between government forces and the National Democratic Front representing the armed insurgents (see below Section 5.1) appeared to bear out that optimism. Delegates, who went to Bicol, northern Luzon and the Visayas regions, were able to document some cases of human rights violations that fell within Amnesty International's mandate, but some of the regional military commanders whom the delegates met seemed committed to respecting the new legal safeguards and investigating alleged abuses when they were reported directly to military headquarters. There were no prisoners of conscience and few reported instances of incommunicado detention, torture, "disappearance" or political killing by government forces in the areas visited by the delegates.

By the time of the third Amnesty International mission in July 1987, the situation had undergone a marked change. Negotiations between the government and the insurgents had collapsed in late January 1987, and fighting had resumed. Amnesty International began to receive reports of human rights violations committed during military operations against the NPA. The government encouraged the formation of "civilian volunteer self-defense organizations", more commonly referred to as "vigilante" groups, as a means of combating the insurgency, but it exercised little supervision over the groups, and reports of serious human rights violations, including deliberate killings of suspected NPA supporters and members of left-wing organizations, increased. Members of "vigilante" groups themselves became targets of the NPA as a result.

Amnesty International representatives discussed their concerns about reported political killings by both regular security forces and irregular paramilitary groups, including the "vigilantes", with military and civilian authorities at both national and provincial levels. They were briefed on efforts undertaken by the Departments of Local Government and National Defense to register the groups and supervise their activities, but Amnesty International's information suggests that in the months that have elapsed since the July mission, the problem of human rights abuse by these semi-official forces has only increased.

3. THE MARCOS LEGACY

The extrajudicial executions taking place in the Philippines today must be seen in the context of the legacy of the Marcos years and the Aquino government's response to that legacy.

Ferdinand Marcos had been in power for almost 20 years when he fled into exile in the USA on 25 February 1987. For all but seven of those years, he had exercised dictatorial powers in a system he called "constitutional

authoritarianism." By the time he departed, a pattern of gross and systematic violations of human rights had been well established.

President Marcos assumed full control of the executive and legislative branches of government and direct personal command of the military after his proclamation of martial law on 21 September 1972. The proclamation followed a series of mysterious bomb attacks which are now widely believed to have been carried out on his orders. It referred to the danger of the violent overthrow of the government, insurrection and rebellion by the then small NPA and the need to curtail some liberties in the short term "to protect civil rights and freedom" in the future.

In the first few days of martial law, President Marcos arrested and detained thousands of government critics and opposition figures, including many whom Amnesty International considered prisoners of conscience; closed the Philippines Congress; closed down the independent press; suspended the right to habeas corpus; and took full control over all appointments to the judiciary.

The closure of Congress and the President's control over the judiciary removed essential checks on executive and military authority. The powers of the legislative and judicial branches of government continued to be severely circumscribed even after martial law had been officially lifted in 1981.

At the time martial law was declared, the Philippines was in a state of constitutional limbo. Elected delegates to a Constitutional Convention were drafting a new charter to replace the 1935 Constitution then in force. Under that Constitution a President could serve only for two four-year terms, and President Marcos's second term was due to expire in 1973. A proposal in the new draft for a change to a parliamentary system would have allowed him to continue in office if elected Prime Minister. Opponents of the proposal were among the first to be arrested when martial law was declared. The remaining delegates subsequently completed the draft, but the new Constitution included several provisions which strengthened President Marcos's powers. One provided for an interim National Assembly, but no legislative body was convened until 1976 and then its members were appointed, not elected. Amendment 6, ratified in 1976, reinforced the President's legislative powers and stated that executive decrees were to remain the law of the land even after martial law was lifted. This amendment provided the legal basis for many of the human rights violations relating to arrest and detention.

Arbitrary arrest and indefinite detention without charge or trial were made possible by a series of presidential orders and decrees. Initially intended to facilitate the arrest of those suspected of national security offences, the decrees gradually expanded the range of offences to include everything from "spreading false rumors" to cattle rustling. Anyone arrested under these decrees via the Arrest, Search and Seizure Orders (ASSO) of the martial law period; Presidential Orders of Arrest and Presidential Commitment Orders used until 1983; and Preventive Detention Actions (PDAs) used between 1983 and 1986 could be detained "until otherwise ordered released" by the President or his duly authorized representative. (See Report of Amnesty International Mission to the Republic of the Philippines 11-28 November 1981)

The power of the executive to arrest and indefinitely detain political suspects without recourse to judicial procedures led to other human rights violations. Torture, including electric shocks, burning with lighted cigarettes,

severe beating and denial of sleep, was used widely and systematically by the security forces during the Marcos years, particularly during what was termed "tactical interrogation" of suspects in the period immediately following arrest. Such interrogation was carried out by composite military teams that almost always included military or police intelligence officers who were under the authority of the National Intelligence and Security Agency (NISA). Detainees were frequently held incommunicado in secret holding centres called "safehouses" or, more often after martial law was lifted in 1981, in military barracks. Many people reported to Amnesty International as having "disappeared" were later found to have been in military custody and to have been tortured during the period of their "disappearance". Torture was inflicted on detainees to extract "confessions", or signed statements waiving their right to have counsel present during interrogation or indicating that they were not ill-treated while in detention.

Although arbitrary arrest and detention and torture were the most prevalent human rights violations during the martial law period, the number of "disappearances" and extrajudicial executions increased dramatically in the last five years of the Marcos government after martial law was lifted. Victims included politicians, lawyers, priests, church workers, journalists and students, all suspected of engaging in or supporting subversive activities. In some cases the killings were alleged to have been carried out by regular units of the Armed Forces of the Philippines; in others, paramilitary organizations such as the Civilian Home Defense Forces (CHDF) which were under the control of the Philippines Constabulary, or anti-communist religious cult groups, supported or equipped by the military, were held responsible (see Reports of Political Killings by Government Forces in the Philippines - AI Index ASA 35/35/85).

Prosecutions of suspected human rights offenders were rare. Under Presidential Decree 1850, military courts were given exclusive jurisdiction over cases involving military personnel--including the police--regardless of the nature of the offence, and military prosecutors failed to pursue cases of alleged human rights abuse. Military courts, moreover, were not considered independent or impartial. Relatives of victims or other possible witnesses were often reluctant to pursue complaints for fear of reprisals or because they believed they would not obtain justice in court.

3.1 The Military Under Marcos

Developments in the military also affected the human rights situation under President Marcos. A build-up of the Philippines' military, the extension of its activities into the countryside through "civic action" programs (building roads and bridges and giving assistance to farmers) and the formation of civilian defence patrols had begun before martial law was declared. Under martial law, however, President Marcos vastly expanded the size and resources of the armed forces. The military budget increased by 500 per cent between 1972 and 1976 and the number of troops (including the paramilitary Philippines Constabulary) grew from 60,000 to 164,000 in the same period.

The implications for human rights observance lay not so much in the increased size of the armed forces, however, as in the change that took place under martial law in the nature of civilian-military relations. The principle of civilian authority over the military was disregarded, particularly in the provinces. One political analyst in the Philippines observed that after 1972,


the military replaced civilian politicians as the primary dispensers of political patronage. "Feeling the change in the distribution of political power, many petitioners transferred their locus of operations from the traditional politicians to the officer corps" (Caroline G. Hernandez, quoted in R.J. May and Francisco Nemenzo, The Philippines After Marcos, Croom Helm Ltd: 1985, p.92).

Civilian control over local police forces ended in 1975 when President Marcos integrated the police into a national force, the Integrated National Police, combined them with the Philippines Constabulary (PC) which was one of the four main branches of the Armed Forces of the Philippines, and placed the whole under the Ministry of National Defense. At the same time, the role of the PC was expanded to include police, intelligence and combat duties. It was the PC, led for the duration of martial law by General Fidel V. Ramos, later Chief of Staff of the Armed Forces and currently Secretary of National Defense, which had primary responsibility for fighting the insurgency. It was also the PC to which many of the most severe human rights violations were attributed.

Martial law also effectively removed any checks on military and police abuses. Before 1972, Congress joined the executive in exercising control over the military, in part through congressional review of promotions. After the abolition of Congress not only did sole authority over the military rest with the executive but President Marcos became the sole civilian with such authority. The Chief of Staff, General Fabian Ver, reported directly to the President; the Minister of National Defense merely carried out the President's instructions.

A new regional military structure was created, staffed by officers personally loyal to President Marcos and General Ver, to whom provincial officers reported. As the top ranks of the Armed Forces of the Philippines swelled and came to be regarded as corrupt and inefficient so increasing use was made of paramilitary groups in counter-insurgency operations. The Civilian Home Defense Forces, established in 1970, were nominally under the control of the PC, but senior military officers themselves admitted that the screening of potential members was minimal until 1986; and pay was so low that only those who had no other prospect of employment, including people with a criminal background, would join up. Only limited funds were made available by the armed forces for training, and as the military's use of the CHDF expanded local "warlords"--often politicians or plantation owners--provided the funds for uniforms and weapons, and occasionally for training as well. The result was that in many areas the CHDF served the dual function of a paramilitary arm of the regular armed forces and of a private army for locally powerful individuals.

Although the CHDF was the only official paramilitary force under the direct command of the military, by the early 1980s a number of other groups, many of them religious cults, all of them strongly anti-communist, had emerged. These groups which bore names such as Sagrado Corazon Senor (Lord of the Sacred Heart, more commonly known as Tadtad, or "chop-chop" from the practice of mutilating their victims with machetes); Rock Christ; Puluhan (The Red Ones); the 4K's (Kasal-anan, Kaluwasan, Kinabuki, Kabus, or Sin, Salvation, Life and Property); and others operated in rural areas, often where counter-insurgency operations by regular forces were underway. Their members would abduct or kill individuals suspected of supporting the NPA, and the military did nothing either to disassociate itself from such abuses or to curtail the groups' activities.



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Puluhan members, "The Red Ones" (c: Sandro Tucci/Asiaweek)

3.2 The Insurgency

The official rationale for military expansion was the need to combat growing insurgency. There is strong evidence, however, that a side-effect of that expansion was an increase in military abuses, which led to a concomitant increase in popular support for the NPA.

The present Communist Part of the Philippines (CPP) was founded in December 1968 when a group of university students, heavily influenced by Maoist doctrine, broke away from the Partido Komunista ng Pilipinas (PKP), (The pro-Soviet PKP still exists but has little influence.) The NPA was founded a month later. Its operations were confined to a single province in Central Luzon (Tarlac) and its arsenal reportedly consisted of 29 rifles and a few handguns. By the time martial law was declared it had armed guerrillas in Northern Luzon as well, and by the end of the Marcos era it was operating in 56 of the 73 provinces.

The united front organization controlled by the CPP, the National Democratic Front or NDF, was established in 1973. While it has some 13 party-led organizational affiliates, all of which are underground, its influence extends much further – to many legal organizations and institutions.

The repression of the martial law period was not only partly responsible for the growth of the NPA but also for blurring the distinction between the radical left and other critics of the Marcos government. One consequence was that many members of activist church organizations, human rights groups or other legal organizations were accused of support for membership of the CPP-NPA simply because of a shared concern over the political and economic consequences of government policies.

3.3 Events of 1983 to 1986

The assassination of Benigno Aquino on 21 August 1983 provided a focal point for opposition to President Marcos, and mass protests and demonstrations took place on an unprecedented scale. A bewildering array of associations and coalitions were formed, such as the Nationalist Alliance for Justice, Freedom and Democracy (NAJFD), the Committee to Restore Democracy (CORD), the August 21 Movement (ATOM) and BAYAN (the Filipino acronym for New Patriotic Alliance). Some of these "cause-oriented" organizations were more politically oriented than others (BAYAN in particular was dominated by the far left) but they were united in opposition to Marcos. Together with sectoral organizations representing trade unions, peasants, women, doctors and even business professionals, they constituted the "parliament of the streets."

An economic crisis involving the collapse of the sugar industry, the corruption and mismanagement of the economy by President Marcos and his close associates and a spiralling debt burden fuelled the political opposition, particularly among the middle class.

As opposition grew, repression followed, and many people active in the "parliament of the streets" were arrested as suspected national security offenders. Others "disappeared" or were killed. Investigations into "disappearances" and killings were occasionally established, but only few resulted in indictments of military personnel (one of these was the Agrava Commission investigating the death of Senator Benigno Aquino).

Partly in order to demonstrate, as domestic and international protests increased, that he still had a mandate to govern, President Marcos called a "snap election" for president in November 1985. It was held on 7 February 1986. He ran against Corazon Aquino, who made human rights a key issue in her campaign. The election itself was marred by widespread violence and massive fraud, witnessed by several international teams of election observers. President Marcos declared himself winner on 15 February, and Corazon Aquino called for a campaign of civil disobedience. A military coup planned by members of the Reform the Armed Forces Movement (RAM) led to the defection to the opposition of Defense Minister Juan Ponce Enrile and Acting Chief of Staff General Ramos. They announced their support for Corazon Aquino, and as troops loyal to President Marcos were sent in to crush the coup, hundreds of thousands of people turned out on the streets to prevent army tanks from getting through. The four days 21 to 25 February became known as the February Revolution. President Marcos fled into exile in the USA on 25 February, and Corazon Aquino took office as President.

4. PRESIDENT AQUINO'S ACTIONS ON HUMAN RIGHTS

In fulfilment of her campaign promises, President Aquino immediately took steps to change some of the repressive features of the previous government. Two days after taking office she announced that all political prisoners would be released. That same week she restored the right to habeas corpus and within a month she had set up a government body to investigate human rights abuses. Other reforms followed, but by mid-1987 increasing insurgent activity, resulting in the assassination of police officers and soldiers and increased political violence, had led to military pressure to strengthen existing laws on the arrest, detention and prosecution of suspected insurgents.

4.1 Political Prisoners

On 27 February 1986 President Aquino ordered the release of all political prisoners, including alleged NPA and CPP leaders, in line with her commitment to human rights and in the spirit of national reconciliation. Already by 5 March over 500 political prisoners had been freed and by mid-June 1986 officials gave the total number released as 563. The released prisoners included all those who had been detained under Presidential Commitment Orders (PCOs) or Preventive Detention Actions (PDAs).

Once this release program had begun, however, disagreements emerged as to how many political prisoners there were. After the release of all those detained under PCOs or PDAs, human rights groups maintained that there were hundreds of other prisoners who had been arrested for political reasons but had been charged with, and in some cases convicted of, non-political crimes. The government set up the Presidential Committee on Political Prisoners/Detainees in the Ministry of Justice to review the cases of prisoners charged with criminal offences who claimed to be political prisoners. By the end of 1986 the committee had reviewed the cases of 90 prisoners who had applied for pardon and had recommended 15 for release. Many prisoners who were eligible to apply, particularly those charged with criminal offences but not yet tried, refused to do so because they felt it would imply admission of guilt. A ruling on the issue was sought by the State Prosecutor, but before he could act, the committee's authority to grant pardons was superseded by the new Constitution, under which only convicted prisoners could apply for pardons.

Few political arrests took place immediately after the change in government and those who were arrested were usually released within a few days. Those detained longer were charged with criminal offences before civilian courts. While preliminary negotiations were in progress with the NPA, however, two major political arrests were made of individuals accused of involvement in the armed insurgency. Miriam Dugay, the wife of the National Democratic Front representative for northern Luzon, was arrested in the province of Kalinga-Apayao on 23 June 1986 and charged with arson with homicide in relation to an incident in 1984. She was released on bail in November 1987. Rodolfo Salas, alleged member of the CPP Central Committee, was arrested in Manila in September 1986 and detained on charges of rebellion. He was still in detention at the end of 1987.

4.2 Torture

President Aquino publicly condemned the use of torture on several occasions, one of them during a meeting with Amnesty International delegates in May 1986. In an address to troops on 3 July 1986 she said "that hideous practice has no place in a democracy and no justification in the accepted wisdom on counter-insurgency". Her government ratified the United Nations Convention Against Torture in June 1986, and the existing prohibition of torture was strengthened in the Bill of Rights incorporated into the new Constitution in February 1987. By outlawing all forms of secret and incommunicado detention the Bill of Rights established an important safeguard against torture.

In March 1986 the President abolished NISA. (In July 1987 an article on NISA in the Manila Chronicle claimed that its "special projects division" had been "a front for 'salvaging' operations [extrajudicial killings] against critics of the deposed regime". (Manila Chronicle, 23 July 1987).

4.3 Investigations

On 18 March 1986 President Aquino established a Presidential Committee on Human Rights (PCHR) under former Senator Jose Diokno to investigate human rights violations and recommend safeguards to prevent such violations in future. This committee included representatives from the military and major human rights organizations such as Task Force Detainees of the Philippines (TFDP) and the Free Legal Assistance Group (FLAG). It was ordered to investigate all reports of human rights violations including political killings, torture, illegal arrests and "disappearances".

The PCHR gave top priority to reviewing cases of remaining political detainees, investigating some of the more well-known allegations of human rights abuses by the previous government and drafting laws and resolutions on human rights for the President to consider. Some of the PCHR's recommendations became law--for instance a requirement that all "investigating and arresting personnel" receive training in human rights. Others were never acted upon. By the end of 1986, according to the PCHR's report, 708 complaints had been filed with it. More than half (505) of them were about cases which had occurred under the previous government; 203 cases concerned incidents which had taken place after President Aquino had taken office. The PCHR had no prosecutorial powers; it could only conduct hearings and make recommendations to President Aquino based on its findings. An article in the Philippines newsweekly, Mr and Ms Special Edition (29 May to 4 June 1987) noted that the Executive Office of the President had taken no action on any of the individual cases brought to its attention by the PCHR. The PCHR did note in its 1986 annual report that 23 cases had been closed during the year, but only seven of them through action by the courts. In some cases court action had been initiated before the PCHR was formed.

Under the 1987 Constitution a Constitutional Commission on Human Rights (CHR) was established. The PCHR was formally dissolved by Executive Order No. 163 on 5 May 1987. The CHR which replaced it was given a broad mandate to "investigate on its own or on complaint by any party, all forms of human rights violations involving civil and political rights"--a mandate interpreted as authorizing it to investigate alleged abuses by opposition groups like the NPA. By the end of 1987, the military had presented over 100 complaints of NPA abuses to the CHR for investigation. Like the PCHR, the CHR is empowered only to

investigate, not to prosecute, allegations of human rights violations, prosecutions are left to the courts, either civil or military.

4.4 Legislation

President Aquino also repealed many of the decrees of President Marcos under which prisoners of conscience had been held. She abolished the presidential decrees (PD 1836 and PD 1877/1877-A) which had allowed indefinite detention without charge or trial under Presidential Commitment Orders (PCOs) or Preventive Detention Action (PDAs). She also repealed some of the specific laws under which political prisoners had been charged, such as PD 33 (which penalized the printing, possession and distribution of certain leaflets, handbills and propaganda materials) and PD 90 (which outlawed rumour-mongering or "spreading false information"). Also repealed were PD 1834, which had raised the maximum penalty for subversion from life imprisonment to death and PD 1404 which authorized longer periods between arrest and being brought to court in the case of people arrested for particular crimes.

President Aquino also restored the right to habeas corpus, suspended by President Marcos in the case of detainees accused of national security offences. This allowed all detainees to challenge in court the legal basis of their detention. By the same proclamation she abolished the right of military tribunals to try civilians.

Following the breakdown of negotiations between the government and the NPA in early 1987, President Aquino announced that she was retaining bans both on the Communist Party itself and on association with the NPA. Executive Order No.167 of 5 May 1987 revived Republic Act (RA) 1700, which outlawed membership of the Communist Party while at the same time repealing the Act's amendments providing for the arrest and indefinite detention of suspected subversives. In a "midnight decree", signed in the final hours before Congress convened on 27 July 1987 and the President lost her law-making powers, she raised the penalties for association with the NPA from a maximum of 12 years' to life imprisonment.

5. THE MILITARY AND THE INSURGENCY UNDER THE AQUINO GOVERNMENT

Important changes took place within the armed forces after February 1986. The role played by Chief of Staff General Ramos and Defense Minister Enrile in the revolt against President Marcos in 1986 seemed to give the military a new image overnight. The 250,000-member Armed Forces of the Philippines, widely regarded as top-heavy, corrupt and ineffective, became the New Armed Forces of the Philippines (NAFP), and steps were taken almost immediately to overhaul the basic structure. Many generals kept on beyond retirement age were retired and younger officers promoted. Plans were discussed and by early 1987 were underway to transform the 12 "regional unified commands" into a smaller number of "area commands", so returning more authority over troops in the field to the major service commanders (Malaya, 21 April 1987). Civic action projects by the military to improve its relations with local communities were given a new emphasis. A new policy was instituted of appointing officers to commands in their home areas where they spoke the local language.

A "value formation training program" for officers and soldiers was organized. Protestant evangelical organizations are involved and the program,

according to General Ramos, is designed to effect the "internal transformation of the soldier into a professional, God-centered, people-oriented and nation-focused individual." (Far Eastern Economic Review, 12 March 1987). An officer in Bicol told Amnesty International representatives in December 1986 that the program was giving the troops "a sense of pride in wearing a uniform".

Reforms intended to improve the image or efficiency of the military appear to have been initiated by the military themselves. Other reforms intended to improve the human rights record of the military were initiated by civilians.

Human rights education for soldiers and police was proposed by the Presidential Committee on Human Rights in its first resolution passed in April 1986 and was required by law in Memorandum Order No. 20 issued the following July. It appears to have met with little opposition. Memorandum Order No. 20 stated that the education of all arresting and investigating personnel should include, as far as possible, "the study of international conventions, agreements, covenants and declarations on human rights which were ratified by the Philippines or to which it is a signatory." Initial steps to carry out the order were taken in June 1987 when the Commission on Human Rights held a workshop with the Philippines Constabulary/Integrated National Police to develop a human rights syllabus for inclusion in police training courses.

A 50-hour civil-military operations component was approved in April 1987 for inclusion in all military training as part of the NAFP counter-insurgency program called "Oplan Mamamayan". It involves two hours on human rights, with the Bill of Rights in the new Constitution singled out for particular attention. Memorandum Order No. 20 and a memorandum from General Ramos dated 12 August 1986 and entitled "Guidelines Regarding Human Rights Matters" are also included for study. The memorandum states, among other things, that NAFP commanders are responsible for ensuring the safety of witnesses in human rights violations cases and that relatives, friends and legal counsel should be granted free access to detainees. Commanders are also to be "held responsible for assisting the families and lawyers in locating and/or acquiring information regarding the whereabouts and status of detainees or arrested persons in their areas of responsibility. The rights of these persons should always be respected and due process should always be adhered to".

But despite the stated commitment of some senior officers to protecting human rights, the new government's early emphasis on human rights created tensions within the military. On the one hand, the focus on the need for "professionalism" within the armed forces entailed a determination to prevent the kind of abuses which had led to a negative image of the military among the civilian population. On the other, "professionalism" also involved a determination to pursue counter-insurgency operations more effectively, and it was in the course of conducting such operations in the past that many human rights violations had occurred.

A widespread perception arose among some officers in the armed forces that the Aquino government was "coddling communists" and employing a double standard by releasing known underground leaders from prison and offering amnesty to NPA members if they surrendered, while at the same time encouraging the prosecution of military and paramilitary personnel for alleged human rights offences. They felt that their efforts to curb a major threat to national security were neither appreciated nor sufficiently remunerated, and that too much attention was being paid to military abuses when the killing of security force personnel by the NPA

appeared to be increasing.

Many within the military, in fact, appeared to see defence of human rights and conducting counter-insurgency operations as mutually exclusive. In an interview with on the British Broadcasting Corporations's "File on Four" program on 2 March 1987, then Colonel (now Brigadier General) Honesto Isleta, the armed forces spokesperson, said: "On the ground war I would say that if only there would not be this hanging sword of Damocles over our heads of human rights. And perhaps if we look at these NPAs as ... foreigner[s] ... in our country, not Filipinos, then we could go all out. To heck with human rights."

5.1 The Ceasefire Negotiations

Many senior officers and officials in the Ministry of Defense were opposed to President Aquino's attempts to open negotiations with the NPA soon after she came to power and deplored what they saw as her desire "to talk to the rebels rather than defeat them"--as one journalist put it. These attempts culminated in an agreement between the government and the National Democratic Front, negotiating on behalf of the NPA, for a 60-day ceasefire. The ceasefire came into effect on Human Rights Day, 10 December 1986.

Little progress was made on political issues during the first month and a half of the ceasefire. On 30 January 1987 the NDF withdrew from the negotiations. The immediate cause of their withdrawal was an incident on Mendiola Bridge in Manila on 22 January when government troops opened fire on supporters of a peasant organization, Kilusang Magbubukid ng Pilipinas (KMP), Peasant Movement of the Philippines, during a violent demonstration in support of land reform near the presidential palace. At least 12 people were killed.

The NDF did not return to the negotiations before the 60-day ceasefire had expired on 7 February. Both sides gradually resumed fighting. On 11 February, President Aquino announced the failure of the truce during a military ceremony and said the military would fight for a new order "marked by the highest respect for human rights". Within two months, there had been over 400 insurgency-related deaths, according to the US magazine Newsweek, including rebels, soldiers and civilians. In March, the President told graduates of the Philippine Military Academy that it was necessary "to take out the sword of war" and that she wanted "a string of honorable military victories."

5.2 Acts of Violence Committed by the Insurgents

Despite the harder line taken by the President, dissatisfaction in the military intensified, particularly when an amnesty for returning rebels was extended at the same time that NPA assassination squads--"sparrow units"-- were stepping up attacks on military and police personnel in Manila.

There is no question that the NPA--and other armed opposition groups such as the Moro National Liberation Front (MNLF)*--have committed acts of violence against civilian non-combatants and have targeted specific groups of people for

* The MNLF is an armed organization advocating autonomy for the Muslim provinces of Mindanao. Established in 1969, the MNLF engaged the Philippines armed forces in a full-scale war in the early 1970s in which an (continued)

assassination. The Operation Command of the NPA unit operating in Manila, the Alex Boncayao Brigade, took out an advertisement in the newspaper Malaya on 15 June 1987 entitled "Revolutionary Justice Should be Meted Out". It listed the targets of their assassination squad ("sparrow unit") attacks as follows:

- "1. Those who undertake politically-motivated salvaging [executions], kidnapping and assassination of leaders and members of democratic organizations and ordinary civilians and
- "2. Those who actively participate in the violent dispersal of demonstrations, pickets, strikes and other forms of legitimate protest by the people and
- "3. Those who are responsible for and engage in the demolition and forcible relocation of urban poor communities and
- "4. Those who organize, train and recruit members of armed vigilante groups or other paramilitary units and
- "5. Those who directly assist the military in setting up, supervising and running intelligence and spy networks and
- "6. Those who serve as ringleaders and chief protectors of big crime syndicates engaged in drug trafficking, white slavery, kidnapping and extortion."

Figures for the number of NPA victims vary widely, but the National Capital Region Defense Command stated that 88 policemen, soldiers and civilians had been killed by guerrillas between 1 January and 4 November 1987 in Metro Manila; the Alex Boncayao Brigade, the "sparrow" unit operating in the capital, has claimed responsibility for many of them (Manila Chronicle, 13 December 1987). An Alex Boncayao Brigade spokesperson told the Manila Chronicle that the CPP network in Manila had only embarked on regular operations in mid-1987, following the lapse of the ceasefire. By the end of 1987, however, the level of killing had prompted a popular backlash by Manila residents and criticism by human rights activists. (The popular protest led in turn to a publicly-announced change in strategy by the Manila-based Brigade, whose spokesperson said in December 1987 that no more police would be killed and that targeting of victims would be "more selective.")

But military and police in Manila have not been the only targets of the NPA, nor have hit-squad assassinations been the only form of violence used.

The Philippines press has reported numerous instances of people having been "arrested" by the NPA, tried in "people's courts" and "executed". In August 1987, for example, the Manila Chronicle reported the NPA's "arrest" of former Nueva Vizcaya Governor Osias Cadiante Sr on 22 July. He was tried by a "people's court" on charges of "landgrabbing, 'counter-revolutionary policies' and corruption" and was shot on 14 August.

estimated 50,000-60,000 people died. The war ended with the signing of the "Tripoli Agreement" giving limited autonomy to 13 provinces in Mindanao. The agreement was never fully implemented and the MNLF leader, Nur Misuari, lived abroad in exile until invited to return to the Philippines by President Aquino in 1986. The 1987 Constitution provides for an autonomous region in Mindanao, but the exact terms have not been worked out, leading to disputes--and armed clashes--between the MNLF and the government and between the MNLF and various breakaway factions, including the Moro Islamic Liberation Front (MILF).

Widespread publicity was given to mass graves uncovered in Mindanao which reportedly contained the bodies of suspected informers executed by the NPA during a major purge of its ranks in 1985-86. There have also been occasional reports of torture.

The NPA took advantage of the evident dissension and disarray within military ranks, revealed by a major coup attempt on 28 August 1987 in which 50 people died to launch a major offensive involving "economic sabotage" such as blowing up bridges, further escalating the level of political violence. While some of the NPA attacks seemed a direct response to the coup attempt, they may have been the result of decisions taken by the CPP earlier in the year, according to the Far Eastern Economic Review (17 December 1987), to employ more aggressive tactics and put more emphasis on armed operations as opposed to parliamentary manoeuvring. (The officially permitted party of the left, Partido ng Bayan did poorly in the May 1987 congressional elections and sponsored few candidates in the January 1988 local elections.)

The increase in political violence has led some members of the military to press for stricter legal measures against suspected subversives. In September 1987 defence and military officials drafted an "Internal Security Act", modelled on those of Malaysia and Singapore, which would permit the detention without trial of people accused of subversion, restoration of the death penalty, and a national system of identity cards. The Malaysian and Singapore laws have been used to arrest and indefinitely detain without charge people suspected of national security offences, including many people Amnesty International considers prisoners of conscience.

6. POLITICAL KILLINGS ATTRIBUTED TO THE REGULAR ARMED FORCES

Amnesty International had received a number of reports of alleged extrajudicial executions in the last months of 1986. The number of reports it received increased after the resumption of fighting between the NPA and government troops in the aftermath of the collapse of negotiations in January 1987. The alleged extrajudicial executions included both killings of non-combatants during operations against the NPA, usually in rural areas, and targeted assassinations of members of legal left-wing associations.

On 10 February, three days after the ceasefire lapsed, 17 villagers, including six children and a couple in their eighties, were killed by the Philippines army in the barangay (district) of Namulandayan, in Lupao, Nueva Ecija province, following an NPA ambush of an army patrol in which a lieutenant was killed. The NPA fighters escaped, but soldiers then rounded up many villagers from their homes and shot them dead. General Ramos, Chief of Staff of the Armed Forces, ordered a full investigation on 13 February 1987. President Aquino made a personal visit to the area a week later. On 28 February two officers involved had been relieved of their posts, three soldiers had been detained in Manila and four others had been confined to barracks. By June, the head of the military investigation commission had recommended the filing in military courts of murder charges against 42 soldiers who had refused to give evidence to the commission. At the same time, proceedings had begun in Pasig Municipal Court, Manila to "perpetuate" the testimony of witnesses--a legal device allowing witnesses who may be in danger of harassment not to have to testify repeatedly at different stages of a trial. Despite the unusual speed of the investigation no courts-martial were underway in the Lupao case by early



The funeral of victims of the Lupao killings (c: Reuters)

1988 and no identification parade had been conducted by police so that villagers could identify individual soldiers who had taken part in the shooting.

6.1 Alleged Army Killings in Northern Negros

On 20 April 1987 the NPA attacked the headquarters of the Alpha company of the 57th Infantry Battalion (IB) in Bato, Sagay, and 15 soldiers and four NPA members were killed. In response, soldiers from the 57th IB and the 61st IB based in Dian-ay, Escalante, conducted searches between 20 April and 1 May for NPA members in the hinterlands of Cadiz and Sagay in northern Negros. During these military operations as many as 13 non-combatant civilians were reported to have been killed.

Samuel Jimenez

On the morning of 25 April Samuel Jimenez, a farmer aged 25, and two women, Alicia Amante and Nenita Salas, left their homes in sitio (hamlet) Sawahan 3 of barangay (district) Gustilo, to go to market in sitio Alimatok, about two kilometres away. On the way they were arrested by a combined unit from the 57th and 61st IB. The three were tied up and taken to Alimatok Elementary School which the soldiers were temporarily using as a base. The two women were separated from Samuel Jimenez and questioned for four hours about whether they were NPA commanders and what they knew about the 20 April raid. When the two asked the soldiers about Samuel Jimenez they were told that he had been released. Samuel Jimenez' mother heard about the arrests later that day and the next morning came to the school where Alicia Amante and Nenita Salas had been

held captive at the Alimatok School. He was later released and returned to his home in Bato. He was released.

On 27 April, the decomposing body of Gamino Jimenez was found about 3 kilometres from Alimatok School. He had been strangled with his own scarf, his hands were tied, an eye had been gouged out, his fingernails pulled out, and there were stab wounds in the chest and one armpit.

The same day Alicia Amante and Nenita Salas were transferred to the 57th IB headquarters in Bato, where they were held without charge for seven days then released.



A widow of one of the Lupao victims and other survivors describing to President Aquino what happened (c: A. Valle/Malaya)

Antonio Segayle

Antonio Segayle, a farmer aged 67, lived in sitio Binangkuli, barangay Celestino Villacin. According to the sworn testimony of his wife, he was taken away from home at about 6.30am on 26 April. She said he had been sitting on their porch when soldiers from the 57th IB came and forced their way into the house, ransacked their belongings and took some of their clothes. She said the soldiers had taken her husband away so that he could guide them to sitio Alimatok, and that they had ordered him to carry some of their food. Three days later she found his mutilated body face down in a charcoal baking hole about three kilometres from their home. He bore several stab wounds and burn marks. His wife

was forced to bury the body there because she could not take it home

Matranillo Malinao

Matranillo Malinao, a farm labourer aged 33, also lived in sitio Binangkuli. At about 6.30am on 26 April 1987 he left home to visit his farm. According to the affidavits of his wife and his brother, he was arrested on the way to the farm by about 50 soldiers from the 57th IB who ordered him to guide them to sitio Alimatok. Another witness later stated that troops called at her house on the morning of 26 April with Matranillo Malinao who was tied up. The soldiers asked the witness where her husband, (whom they accused of being an NPA member) was. While she was waiting for him to return the soldiers ordered Matranillo Malinao to cook breakfast for them, at the same time reportedly throwing stones at him. After breakfast they left the house taking Matranillo Malinao with them. The family received no word about him until the afternoon of 28 April, when they found his body face down on the ground about one and a half kilometres from his house and about 500 metres from Antonio Segayle's corpse. His body had 19 stab wounds and some teeth had been pulled out. It was already decomposing and his widow was unable to take it back for burial. In her sworn affidavit, she said Matranillo Malinao had never belonged to any subversive organization.

Edna Velez, Rosie Paner, Susan Ubamos and Gregorio Amasco

At about 10.00am on 26 April over 60 uniformed soldiers, who told local residents they were from the 57th IB, arrived at the home of Hugo Paner in sitio Binangkuli. According to the affidavits of Hugh Paner's family and their neighbours, the soldiers searched the house and questioned the family about the NPA. While the soldiers were at the Paner house, Rosie Paner, aged 14, returned from church with a friend, Edna Velez, aged 16. When the soldiers left the house they took with them the two girls and a third, Susan Ubamos, aged 15, whom they were already holding. After ordering all the occupants to leave the house, the soldiers set fire to it and the Velez's house. Mr Velez later recounted that he had seen the soldiers tying another of his daughters to a tree while their house was burning. He also said he saw the soldiers stop a neighbour, Gregorio Amasco (aged 50) and order him to lie on the ground, where they stabbed him to death. Witnesses said the soldiers took the three girls about 30 metres away from the house and that they had then heard shouts and screams. Later that day the bodies of the three girls were found nearby, bearing multiple stab wounds. Their trousers had been lowered to their thighs and their families believe they may have been sexually assaulted. The next day many of the families fled the area. Members of the Paner family later made statements to the Cadiz City police about the incident, giving them the name of one of the soldiers they had recognized.

On 1 May Rebecca Argawanon, the barangay captain (district head) of Celestino Villacin, publicly accused the 57th IB of the killings in the barangay. She had herself been arrested by the 57th IB on 26 April and swore in an affidavit to Cadiz City police that she had heard the soldiers say that they were going to take Antonio Segayle and Matranillo Malinao away so that they could guide them to Alimatok. She had also heard them warning local residents that if any soldiers were killed they would shoot her and other residents.

In response to reports of such violations the commander of the 57th IB admitted on 29 April that his soldiers had been engaged in military operations in the area during the previous few days. He claimed there had been an


encounter between his men and
there were no reports of casualties
(1987) He also maintained that
found materials seized by the
April.

Following public protests,
Rights Committee to investigate
battalions were transferred
these incidents were later to
identify the soldiers involved
had been involved in some of
military operation, but not
witnesses; those responsible
Nenita Salas were reportedly
whether any charges have been

6.2 Trade Union Organizers in

Amado Cayao

Amado Cayao, aged 48 and married
July when he was about 10 months
Guinsangan II, Silay City.
National Federation of Sugar



The body of

Page 21:

Encounter between his men and the NPA on 25 and 26 April in the area but said there were no reports of casualties from either side, (Visayan Daily Star, 1 May 1987). He also maintained that in the course of these operations the soldier had found maintained that in the course of these operations the soldiers had found material seized by the NPA in its raid on the 57th IB headquarters on 20 April.

Following public protests the Mayor of Cadiz City established a Human Rights Committee to investigate the allegations of military abuses, and the two battalions were transferred to other parts of Negros. Some of the witnesses to these incidents were later taken to the Provincial PC Command in Bacolod City to identify the soldiers involved in some of the human rights violations associated with the military operation, but not all the relevant soldiers were brought before the witnesses; those responsible for the arrest of Samuel Jimenez, Alicia Amante and Nenita Salas were reportedly not present. Amnesty International does not know whether any charges have been filed against the soldiers

6.2. Trade Union Organizers in Negros and Iloilo

Amado Cayao

Amado Cayao, aged 48 and married with four children, was shot dead early on 4 July when he was about 10 metres from his house in hacienda (plantation) Guinsangan II, Silay City. He was president of the local chapter of the National Federation of Sugar Workers – Food and General Trades (NFSW-FGT), No one

Image

The body of Amado Cayao (c: Edgar Cadagat)

saw the shooting as it was still dark, but his wife and sister heard 10 minutes' gunfire and his sister saw two uniformed soldiers near their house a few minutes later. Shortly afterwards four neighbouring houses were searched by armed men believed to be soldiers, and another resident, whose family was ordered to leave the house under threat of a grenade attack, said that he saw eight armed men in military fatigues who were wearing balaclavas to hide their faces. The plantation security guard claimed in a later radio interview that the armed men had been soldiers. He said he had noticed that their uniforms had shoulder patches and nametags, although he could not make out the names because it was dark. According to reports, the soldiers were members of the 339th PC company.

The following day, 5 July, another group of soldiers was seen in the same area. They told local residents they were looking for the Vice-President of the local chapter of the NFSW-FGT and asked them if its meetings were held at his home. These soldiers were reported to have told local residents that the others who had come the previous day were their companions.

Valeriano and Rolito Caro

On 3 October 1987 Valeriano Caro, vice-chairman for the Visayas chapter of the leftwing farmers' organization KMP, was shot dead together with his son Rolito Caro a short distance from their home in barangay Galang, Odon, Iloilo City. Valeriano Caro, aged 60, was married with nine children.

According to his wife, three military men in uniform came to their house at about 9.25am on 3 October. They asked for Rolito Caro and searched the house, but none of the men in the family were at home. Valeriano and Rolito Caro arrived shortly afterwards. Mrs Caro states that she saw the soldiers take her husband and son away and then saw one soldier shoot them both dead about 70 metres from the house.

The military authorities announced later the same day that there had been an "encounter" between the Composite Reaction Force, a unit of the Regional Special Action Force, based in Anhawan, Iloilo, and the New People's Army (NPA), in which the two men were killed. They claimed to have recovered a revolver and ammunition from the two men. Mrs Caro, however, in an interview on a local radio station denied the military version of the incident and recounted what she saw.

Valeriano Caro had been arrested by soldiers from the Composite Reaction Force a few weeks earlier on 19 September 1987. He was reportedly questioned at their detachment headquarters, at the Regional Unified Command headquarters in Iloilo City, and at the Task Force Panay headquarters in Zarraga, Iloilo, before being released on 21 September. On 30 September three soldiers visited the Caro house again and questioned Rolito Caro about his alleged involvement in peasants' organizations.

6.3 Left-wing Activists in Southern Negros

Eriberto Octavio and Wilfredo Rebeto

Eriberto Octavio, aged 36 and married with three children, and Wilfredo Rebeto, aged 34 and married with two children, were sugar workers in Kabankalan, southern Negros Occidental. They were both BAYAN members and campaigned for

Left-wing activists in the center were found dead four days after the 7th IB near its outpost in had members, had left home that day to reported that they had seen their witnesses said they saw the Jeep military vehicle, the next day.

The decomposing bodies were Himamaylan. The two had suffered were tied together and Eriberto O

Nenita Villalobos, Junie Academia



On 6 May 1987 three left-wing activists of three, Marissa Nombre, aged 26 a farm worker, reportedly "disappeared" rights lawyer, Attorney Edmundo Ma month, and they were returning from been a number of threats to Edmundo campaign, and other campaign workers. According to eye-witness reports, (public transport vehicle) in baran stopped by eight men in military uniform police station. They were reported away.

Relatives of the three activists whereabouts at the Kabankalan poli

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Left-wing candidates in the congressional elections of May 1987. On 6 April they were found dead, four days after they were reportedly stopped by soldiers from the 7th IB near its outpost in hacienda Santa Isabela. The two men, both BAYAN members, had left home that day to do business at a sugar mill. Some witnesses reported that they had seen their Jeep outside the 7th IB post that night. Other witnesses said they saw the Jeep being driven away from there, followed by a military vehicle, the next day.

The decomposing bodies were found in a sugarcane field in barangay Tooy, Himamaylan. The two had suffered multiple bullet and stab wounds. Their feet were tied together and Eriberto Octavio's hands were also bound.

Nenita Villalobos, Junie Academia and Marissa Nombre

Image
Nenita Villalobos

On 6 May 1987 three left-wing activities, Nenita Villalobos, aged 27 and a mother of three, Marissa Nombre, aged 26 with one child and Junie Academia, aged 15 and a farm worker, reportedly "disappeared". They were campaign workers for a human rights lawyer, Attorney Edmundo Manlapao, in the congressional elections that month, and they were returning from a campaign meeting in Kabankalan. There had been a number of threats to Edmundo Manlapao's life during the election campaign, and other campaign workers were reported to have been harassed too. According to eye-witness reports, the three were travelling in a 'jeepney' (a public transport vehicle) in barangay Hiramunan, Kabankalan, when they were stopped by eight men in military uniforms led by an officer from the Kabankalan police station. They were reportedly pushed into the soldiers' vehicle and taken away.

Relatives of the three activities asked for information about their whereabouts at the Kabankalan police station on 8 and 12 May but officers there

denied having arrested them. The relatives also made inquiries at the 7th IB headquarters in Dancalan, but an officer there also denied holding them. A lawyer acting on behalf of the relatives submitted a petition for a writ of habeas corpus to the Kabankalan Regional Trial Court, but the military authorities named as respondents in their petition refused to appear before the court.

Later that month two decomposing bodies were found in a sugarcane field in Talisay, about 85 km north of Kabankalan. At the request of one of the families, one of the bodies was exhumed and positively identified as that of Nenita Villalobos. One of the other bodies, the corpse of a male aged 15 to 17, was presumed to be that of Junie Academia although definite identification was not possible. Marissa Nombre is still missing and as of January 1988 there had been no progress in the court case.

6.4 Alleged Army Killings in Samar

Olympio Obina, Mario Loste, Ronie Resano, Efren Bajado and Danilo Pagapos

On 10 April 1987, the day before registration for the 11 May congressional elections opened, soldiers from the 34th IB arrived in the barangay of Salvacion in Can-avid, Eastern Samar. The next morning, at 4am, uniformed soldiers called at the house of Olympio Obina, a farmer aged 33 who was married with three children. They broke open the door and took him away. According to his wife's affidavit, the soldiers refused to have any light shone on them and she was unable to identify them. She reported that they did not say why they were taking her husband away. She appealed to the barangay captain to intervene on her behalf but the soldiers still refused to let him go. Two hours later she heard gunshots nearby.

The soldiers also took away another local resident, Vivencio Orabiles, but he managed to escape later that morning. He hid for three weeks for fear of being killed by the soldiers before returning home.

On the morning of 12 April the body of Olympio Obina was discovered at the bottom of a nearby hill. He had been shot in the head. When the barangay captain asked the soldiers from the 34th IB for an explanation he was told that Olympio Obina had been killed by NPA guerrillas. Both the barangay captain and Olympio Obina's widow later swore affidavits about these events at the prosecutor's office in Borongan. Olympio Obina's widow stated that she had not complained to the military authorities for fear of retaliation.

On the morning Olympio Obina was taken away, three farmers who had set off from home in Can-maanghit, Salvacion, to sell rattan in Salvacion town, were reportedly stopped by soldiers from the 34th IB. The farmers were Mario Loste, aged 20, Ronie Resano, aged 19, and Efren Bajado, who was married with three children. They were never seen alive again. On 16 April their corpses were found where Olympio Obina's had been discovered. The bodies bore stab wounds and the ears had been slashed. When the villagers asked soldiers from the 34th IB about the dead farmers the soldiers claimed that they had been killed by the NPA. The families then filed a complaint at the prosecutor's office in Borongan.

That day another farmer was killed, allegedly by soldiers. Danilo Pagapos, a coconut farmer aged 23, was reportedly stopped by soldiers when returning from

fishing in sitio Kilikili, barangay Can-ilay. Local residents heard gunshots, but to Amnesty International's knowledge there was no eye-witness to the actual shooting. Danilo Pagapos's body was found later that afternoon bearing multiple bullet and stab wounds.

The soldiers left the village and some villagers then left the area, apparently fearing for their lives. On 22 April 62 residents of barangay Salvacion signed a petition to the President and other officials protesting about the killings and calling for the victims' families to be compensated.

Antonio Gabane

Antonio Gabane, a suspected NPA member, was reportedly arrested on 15 April 1987 in Motiong, Samar, by more than 20 soldiers from the 56th IB and two CHDF members. Witnesses saw him being led away by soldiers with his hands tied behind his back. On 23 April his relatives went to army camps in Jiabong and Motiong, Samar but officers at both camps denied that he was in custody. On 24 April human rights activists joined his family in requesting help from the Regional Unified Command (RUC) in Camp Lukban, Maulong, Catbalogan. The RUC authorities assured them that they would call the Jiabong and Motiong camps and ask where Antonio Gabane was. On 29 April, however, farmers found his decomposing corpse about 100 metres from where he had reportedly been arrested by the 56th IB.

6.5 Five Muslim Missionaries in Lanao Del Norte

On 29 June at about 8.30pm five Muslim missionaries were killed between two military checkpoints in Pantar, Lanao del Norte, near the border with Lanao del Sur. The five were Saga Ali, aged 22, Ismael Puntunan, aged 23, Haji Usman Abuat, aged 34, and two visiting Malaysian missionaries, Ustadz Abdullah bin Jamaluddin, aged 33, and Professor Zaki bin che Husim, aged 35. All were members of an international Muslim missionary group, Tabligh, and they were reported to have been stopped on their way back to Baloi town after buying air tickets to Manila. They were between two army checkpoints when they were killed. The killings took place 12 hours after three soldiers had been killed in an attack by the Moro National Liberation Front (MNLF) on soldiers in Maguig town, Lanao del Sur.

Relatives of the victims claimed that they had been deliberately killed by the military. According to press reports the five were dragged out of their car, shot and stabbed to death. At least one of the bodies was said to have bruises on the face and gunshot wounds in the back. Another body had multiple stab wounds. Other motorists who drove through the checkpoints later reported that soldiers had been harassing car occupants.

On 1 July Colonel Raul Aquino, the local army commander, suggested publicly that the killing might have been an "attempt to discredit the military". Other military officers suggested that the Muslim group might have been killed by the NPA. Nevertheless, in their major public protests at the killing in Mindanao and Manila, Muslim groups accused the military of murder. On 3 July Vice-President Salvador Laurel expressed the Philippines Government's regret over the killing to the Malaysian Government, and a team from the National Bureau of Investigation (NBI) and the Philippine Constabulary's Criminal Investigation Service (CIS) was set up to investigate.

Shortly before this team was due to announce its findings Colonel Aquino ordered two officers and 14 men from the 24th IB, including two officers, to be placed under "technical arrest" and charged under Article 97 of the Articles of War for failing to take action after the killings. He also ordered the 24th IB to be transferred out of the area. The NBI/CIS fact-finding team reportedly implicated three soldiers in the missionaries' deaths. A Philippine army commander later announced that the three soldiers would be charged with murder in a military court in Manila, and lawyers acting on behalf of the victims said that they would also press criminal charges against these men in civilian courts. Other charges were reported to be pending against two army officers who were responsible as the commanders of the three and against 11 soldiers for failing to take action after the killings. According to a statement by an information officer from the 2/1 Brigade of the Philippine army, the "military is more than willing to have the case tried in a civilian court so as to erase suspicions of a whitewash in the military court martial", and the three principal accused would be discharged from military service as soon as charges were filed against them in a civilian court (Media Mindanao News Service, 30 July 1987).

6.6 An Alleged Police Killing in Davao

Edwin Laguerder, aged 26 and married, was the Mindanao coordinator of PEACE (People's Ecumenical Action for Community Enlightenment), an educational organization for farmers and workers on economic and social issues, and consultant to a farmers' organization called Consortium of Rural Services and Programs (CRSP). He was returning to Davao City on 26 November 1987 after carrying out speaking engagements for PEACE in Cebu and Davao del Norte when he was abducted by armed men from the 'jeepney' in which he was travelling. According to one witness, armed men ordered the 'jeepney' driver to stop near the Sasa District Police Station (about 10 km from Davao City), forcibly removed Edwin Laguerder and then took him into the station headquarters. After about 10 minutes he was reportedly seen being driven away by four men in military uniforms in the direction of Panacan, Davao City, the headquarters of the Regional Unified Command.

The family and friends of Edwin Laguerder attempted to find out what had happened to him, but they were given no additional information by the police or military. The Sasa District Police Station commander admitted that there had been a "commotion" near the station compound that day but said that he could give no more details as there had been no report on it in the police station blotter.

Edwin Laguerder's decomposing body was found floating in the sea by the Sasa public wharf on 6 December 1987. He had been blindfolded and his hands and feet tied. His ribs and backbone had been broken and he had been shot and stabbed. The case has been submitted to the local branch of the Commission on Human Rights for investigation.

7. KILLINGS BY PARAMILITARY FORCES: THE 'VIGILANTE' GROUPS

Many of the extrajudicial executions reported to Amnesty International during its July 1987 mission represent a resurgence of the kind of killings which took place during the Marcos years by paramilitary units acting under the command or

with the sanction of the regular armed forces. The abuses committed by paramilitary groups including the CHDF forces were such that when the Aquino government came to power, many organizations demanded that they be dismantled. These demands resulted in a provision in the new Constitution that "Private armies and other armed groups not recognized by duly constituted authority shall be dismantled. All paramilitary forces including Civilian Home Defense Forces, not consistent with the citizen armed force established in this Constitution, shall be dissolved or, where appropriate, converted into the regular force." (Article XVIII, Section 24)

Even before the Constitution was ratified in February 1987, however, the Aquino government took steps to improve the CHDF in response to widespread criticism. Many criminal and what one military officer referred to as "troublemaker" elements had been recruited into the CHDF during the Marcos years. A more intensive screening process had been instituted by General Ramos by the time of the Amnesty International mission in May 1986 and the appointment period reduced from a year to three months. The training period for recruits was extended and the number of CHDF members in many areas reduced. Precisely because the CHDF was formally acknowledged to be part of the security apparatus, such adjustments were possible. The paramilitary cult groups in contrast, which seemed to flourish when the level of counter-insurgency activity was high, were not the target of immediate, obvious measures to curb their activities, perhaps because no formal relationship with the armed forces had been acknowledged.

A decline in the level of military activity against the insurgents in 1986, culminating in the 60-day ceasefire beginning on Human Rights Day (10 December) 1986, resulted in a concomitant decline in the number of reported human rights violations by military and paramilitary groups. When the ceasefire ended, however, full-scale counter-insurgency operations resumed. As one tool in their effort to stem the rebellion, the military encouraged and authorized the formation of "civilian volunteer self-defense organizations" whose members were to patrol their neighbourhoods and report any strangers or suspicious individuals to local authorities. The growth of these organizations coincided with a move to improve grass-roots intelligence-gathering capabilities, one of the chief functions of the existing CHDF which President Aquino had pledged to dismantle.

The model promoted by the military was the Alsa Masa or "Masses Arise"--a movement which grew up in Agdao, a district of Davao City, in early 1986. Agdao had become virtually controlled by the NPA by 1984 to 1985, and the formation of the Alsa Masa more or less coincided with the elimination of the NPA presence there. Amnesty International representatives received different accounts of exactly why and when the NPA left Agdao. Some sources attributed their departure to a decision to regroup their forces following setbacks due to successful military penetration of their ranks; the departure of the NPA thus had little to do with the Alsa Masa. Others stated that Agdao residents reacted spontaneously to NPA abuses and formed the Alsa Masa, which forced the NPA out. Whatever the factors involved, the conclusion drawn by the military from the Agdao experience was that community-based, citizen self-defence organizations were effective against the NPA.

The notion of establishing organizations along the lines of the Alsa Masa has spread throughout the country so that by early 1988, according to one estimate there were some 200 such organizations, which have generally become known as "vigilante" groups. Many have even adopted the name of Alsa Masa. In



Alsa Masa members in Davao City behind a sign saying "Support the Alsa Masa, Long Live the AFP" (c: Media Mindanao News Service)

theory, as stated by the military, they are not paramilitary organizations, but in practice that is what they appear to have become. They are armed, either with guns or with traditional weapons such as bolos (machetes); they supply the military with intelligence; some have access to military equipment such as vehicles; and in many cases their members accompany regular military forces on patrol or operations. Aiding the counter-insurgency effort may not be their only function, however. As elections approached in January 1988, many observers, including the respected editor of the Manila Chronicle, expressed the fear that the "vigilante" groups were turning into private armies for political candidates.

The distinction between the old CHDF, the cult groups and the new "civilian volunteers" has become increasingly blurred. In Davao City, CHDF members form the armed component of the Alsa Masa, according to the PC commander there, Colonel Calida. Tadtad cult members have joined volunteers belonging to a group called Nakasaka (an acronym for Nagkahi-usan Katawahan Alang Sa Kalinaw, United People for Peace) in operations in Davao del Sur. Following a widely publicized beheading there in March 1987, there were conflicting reports about whether the perpetrators were Tadtad members, as claimed by the press; CHDF members as claimed by the Governor; or Nakasaka members, as claimed by the military investigators of the incident. It is perfectly possible for one person to belong to all three groups. In Negros, Amnesty International representatives were told of a cult group called Power Spirit whose members "became" the Alsa Masa in their community after the execution of one of their leaders by the NPA.

The encouragement given to civilians to take part in the anti-communist



Cartoon from the Philippine daily newspaper Malaya

effort has given a new legitimacy to any group taking an anti-communist stance, whatever its name or reputation. Brigadier General Romeo Recina, the military commander of Region 11, while maintaining that the Nakasaka and the Tadtad were separate groups acknowledged that the latter were "helping" the government because they shared the same anti-communist objectives.

Opinions differ even among senior officials over how exactly "civilian volunteer defense organizations" are to be defined. The then Secretary of Local Government, Jaime Ferrer, told the Amnesty International representatives in July 1987 that he was opposed to the arming of civilians, and that the Nakasaka which he had helped establish in Davao del Sur and Surigao del Sur, were not armed. A senior officer in the Philippines Constabulary in Manila, however, told Amnesty International that unarmed civilian defence groups were "sitting ducks", and in fact guidelines issued by General Ramos in April to regulate these organizations explicitly recognize that they include an armed component.

The confusion over the nature of such groups may be one reason why the term "vigilante" has become indiscriminately applied to all civilian groups active in the counter-insurgency effort, armed or unarmed, old cult or new group. Colonel Calida told Amnesty International that he disliked the term "vigilante" because it implied that civilian volunteers were "at once judge and executioner" whereas the Alsa Masa members were law-abiding citizens. There is strong evidence, however, that members of the Alsa Masa and other "vigilante" groups have committed grave human rights violations, including political killings, apparently with the knowledge or acquiescence of local military commanders.

7.1 'Vigilante' Killings in Cebu

Farmer Organizers in Cebu

In early 1987, several members of the United Farmers' Organization (UFO) were killed by paramilitary groups apparently operating in conjunction with the armed forces in the mountains near Cebu City. The UFO is the Cebu branch of a provincial farmers' group PAMASU (Panaghopong sa mga Maguuma sa Sugbo), an affiliate of the nationwide left-wing farmers' alliance KMP. In most cases UFO members are alleged to have been killed by members of the Tadtad based in Pamutan. Many of these allegations name the same individuals as being responsible for the killings and one Tadtad member has, for example, been named as responsible for killing four of the UFO members whose deaths are described below.

According to reports, these Tadtad cult members have been seen operating together with members of the Philippines Constabulary (PC) and have been noticed staying at the PC detachment headquarters in Buhisan, Cebu City. In February the Cebu Metropolitan District Commander said that the military needed the services of the paramilitary groups and that the latter could be used under military supervision. The Regional Military Commander, Brigadier General Edgardo Abenina, announced on 28 April 1987 that he might agree to joint military operations with the armed "vigilante" groups. Members of one of these paramilitary groups, Kalihukan Alang sa Demokrasya ug Reporma (KADRE), Movement for Democratic Reform, when recruiting members in sitio Tuburan, Sibugay, Lahug, in April, told residents: "Don't worry, the military is behind us".

Landie Villaren

On 8 March 1987 Landie Villaren, a UFO member in Bugna, Tuong, Pardo, was spraying mango trees when he was accosted by a group of 40 men, including soldiers and Tadtad members. They asked him to point out NPA members and asked him if he was a member of UFO. After he admitted that he was they ordered him to run and then reportedly shot him as he did so. The Chairman of the Tuong chapter of UFO, who witnessed the incident, has filed an affidavit with the prosecutor's office in Cebu naming the killers.

Roberto Sabal, Jovantino Sabal and Buenaventura Cabutay

Roberto Sabal, aged 45 and married with four children; Buenaventura Cabutay, aged 33 and married with four children; and Jovantino Sabal, aged 32 and married with five children, were all farmers and UFO members in Bulacao, Tuong, Pardo. On 15 March they were reportedly killed by a group of Tadtad members who arrived in Bulacao, Tuong that day. The Tadtad members had reportedly maintained that the three must be NPA members because they had not fled from the area in fear with all the other residents. The three were shot dead and their bodies slashed.

Lucia Madayan

On 3 April 1987 Lucia Madayan, aged 35, a UFO member, left her home in Bocaue, Sapangdaku, Guadalupe, to visit her aunt in Banawa, Cebu City. She never arrived. On 16 April her decomposing body was found in Managubtob, Sapangdaku. Her head and one leg had been hacked off and her dress was torn. Local residents reported that Tadtad members had frequently been seen in the area accusing a number of local people of being NPA sympathizers, and a witness, who is

unwilling to be named, is reported to have seen Lucia Madayan being taken to the house of one of the Tadtad leaders.

Lolito Ubod

Lolito Ubod, a UFO official aged 32, was killed, allegedly by Tadtads in Upper Lanipao, Sapangdaku, on 17 April. His skull had been broken and his ears cut off. That day Tadtad members had been seen accompanied by PC members apparently searching for farmer activists in Sapangdaku. Four witnesses to these activities stated what they had seen at a PAMASU news conference soon after the killings. However, a Tadtad leader told a newspaper reporter on 19 April that they had not been responsible for the killing.

Elpidio Sabas

Elpidio Sabas, aged 28 and married with two children, was a farmer in sitio Tambugasa, Lower Napo, Sapangdaku. He had been Chairman of the Lower Napo chapter of UFO since 1986 and had helped UFO to set up an experimental farming project in the nearby sitio of Baksaan. He was repairing a fence on 12 June when 50 armed men, including PC soldiers and Tadtad members from the Pamutan area, arrived looking for someone called Siano or Ponsa whose mother lived in the village. The PC soldiers were reported to have stood by while the Tadtad members conducted house to house searches. The armed men told Elpidio Sabas' wife that they were taking him away to be a guide. Elpidio Sabas did not return that day. On 14 June his body was found about 70 metres from his home. He had been hacked to death.

Sally Econas

Sally Econas, aged 34 and married with six children, was a forest warden for the Bureau of Forest Development's reforestation project in Buhisan, Cebu City. He was also a sergeant-at-arms for the Cebu City UFO and had helped to set up the UFO experimental farm project. On 9 July 1987 he was eating lunch with four friends while waiting to collect his salary. According to the affidavit of his niece, who was among many witnesses to the killing, he was then approached by a group of armed men who ordered him to stand up. Some of these armed men were wearing red headbands, and some were masked, but local residents were able to identify some of them. The armed men then shot Sally Econas 46 times in full view of a nearby 341st PC company detachment office where eight PC soldiers were reportedly watching from a window. The armed men also shot at the bystanders as they attempted to run away. The soldiers then placed a gun beside the body of Sally Econas.

The police chief of Pardo, Lieutenant Colonel Candido Fanilag, publicly stated on 10 July that Sally Econas was an NPA commander, and that when stopped by Tadtad members he had drawn a .22 pistol.

Following the killings of these farmer organizers, their families and colleagues complained to the Cebu police chief and the Cebu Metropolitan District Commander, but were reportedly told that they had to file cases in court. PAMASU then presented the police with affidavits on the killings. The military apparently told them that they would investigate, but that many of those killed, including Landie Villaren, Lolito Ubod and Elpidio Sabas, were guilty because they were NPA members.

Teodorico Ejaco, Santos Llamedo and Clemente Amancia

On the morning of 28 February 1987 a group of armed men arrived in the village of Candulawan, Talisay, Cebu. Villagers recognized them as Tadtad members from their red headbands and knew many of them by name. They said the Tadtads were accompanied by up to eight uniformed PC soldiers, and that they believed the Tadtad operation was in response to an NPA attack on the Tadtad base in sitio Iba, Talisay, on 23 February 1987 in which two Tadtad members had been killed.

Residents described how the Tadtad members seized three men from their village. Two of them, Teodorico Ejaco, aged 46, and his brother-in-law, Santos Llamedo, also aged 46, were removed from a neighbour's house while they were preparing for lunch. Teodorico Ejaco was a visitor to the barangay who was preparing a mining survey; Santos Llamedo was a barangay councilman. The third man, Clemente Amancia, was reported to have been separately seized by the armed men after he had offered them a drink of water. According to the statement of one witness who refused to be publicly named: "They [the armed men] had with them two other residents of Candulawan. The latter were brought to a place in front of our chapel where they were surrounded. I recognized the two as Teodorico Ejaco and Santos Llamedo. The armed men touched Teodorico's face before they hit him with the butt of an Armalite rifle while his feet were strafed. At the same time Santos was pleading with them for the life of his brother-in-law. For this Santos was also hit on the head with an Armalite rifle after which he was shot. The group gave chase to another person [Clemente Amancia] who ran away from the scene. When they came back, it was said that the latter was dead. I was able to recognize some of those armed men who were armed with long bolos, .38 calibre pistols and rifles. There were seven others who were in uniform and armed with Armalite rifles like the military." Another villager said that after the killings he had seen a helicopter which he believed was military flying towards sitio Iba, Talisay, the Tadtad base.

On 1 March 1987 the Sun Star Daily reported military and police sources as claiming that the victims were NPA sympathizers, plus a statement by the Cebu Metropolitan District Commander publicly denying that any soldiers had been deployed in Candulawan that day. Later that week, however, charges of murder were filed against one of those named by local residents as responsible for the killings, and a warrant for his arrest was issued by the court. It is not known whether he was in fact arrested.

7.2 'Vigilante' Killings in Negros

Norberto Gallines

Norberto Gallines, a 28-year-old farm worker who was married with three children, was killed in sitio Luyang, Oringao, Kabankalan, in southern Negros Occidental, on 28 June 1987. He was one of over 100 members of the Kristianong Katilingban, Basic Christian Community (BCC), in his village. He had left home at 1.00pm that day to go to work on his farm a short distance away. That afternoon six armed men, whom local residents described as Alsa Masa members, arrived in the area, armed with machetes and homemade guns. The villagers said they recognized and could name the leader of this armed group. The armed men were looking for someone called Garzon whom they accused of attempting to kill their leader on 26 June. Norberto Gallines was weeding his farm when the armed men seized him and dragged him down the hill, where they shot him dead with a



The severed head of Norberto Gallines

neighbour looking on. Villagers said they then beheaded him, wrapped his head in a jacket and hacked out part of his intestines and liver.

Later that afternoon the armed men were seen by a number of other BCC members in sitio Luyang who were taking part in a religious service. The armed men interrupted the service and seized one BCC member, George Trocio, and took him with them to the 7th IB post in Oringao, where he saw the Alsa Masa members unwrap the head of Norberto Gallines and show it to an army officer. Afterwards the Alsa Masa members proceeded to the 7th IB Charlie Company headquarters in Bunga, where they again showed the head to officers. George Trocio was then interrogated at this headquarters about Norberto Gallines' activities. After a local priest had intervened, George Trocio was released on 29 June. Local residents said they saw the Alsa Masa members throw the head away soon after they left the Charlie Company's headquarters.

According to a statement by Major Edwin Recabe of Task Force Sugarland, a special military command covering all of the island of Negros, no report of the beheading was received by the 7th IB (The Visayan Daily Star, 1 July 1987). The same newspaper article reported that a Kabankalan police officer had alleged that Norberto Gallines was an NPA member who was killed while plotting an ambush.

Six Basic Christian Community (BCC) Members in Mahalang

Six BCC members in sitio Manubotobo, barangay Mahalang, Himamaylan, were abducted from their homes by a group of armed men on the night of 9 August 1987. The six were Jesus Montessino, aged 60; his wife, Rosa Montessino, aged 40 and five months pregnant; their son, Abundio Montessino; their nephew Antonio Iligan, aged 37; and George Lapuz and his wife, Roselyn. Villagers later reported that they had seen the armed men arrive in their area at about midnight

and had then heard a commotion coming from the Montessino home. One villager, who was briefly detained by the armed men, later testified that he saw them searching the Montessino house and leading away a group of people. Another villager who saw four armed men leading away the people, recognized their leader as the leader of the armed group Power Spirit. Antonio Iligan's wife testified that five armed men, one in a military uniform, arrived at their home at about midnight and asked her husband where a certain Duric lived, but that he had told them he did not know. She reported that the armed men then kicked her husband and hit him with their Armalite rifles, tied his hands and took him away, telling her that they were "borrowing" him.

The bodies of the six were found in a nearby cornfield before dawn the next morning. They bore multiple stab wounds.

Relatives of the victims stated that they thought the six had been killed because of their active involvement in the BCC, which the Power Spirit cult reportedly maintains is a "communist front" organization. On 17 August a lawyer acting on behalf of the relatives filed a complaint of multiple murder against the individual named as leader of the group in the affidavits of witnesses, and in late 1987 the Regional Trial Court judge of Himamaylan issued a warrant for his arrest. According to the lawyer, Himamaylan police had not served the arrest warrant as of December 1987, claiming they could not do so as long as the Power Spirit group was under the jurisdiction of Task Force Sugarland which has responsibility for all combat forces in Negros.

Power Spirit has been a religious cult group in Negros since the 1950s. In May 1987, however, the head of the group was killed by the NPA. Following his death, armed members of Power Spirit reportedly told residents in the Himamaylan region that they had been transformed into an Alsa Masa group and that they had had arms "loaned" to them by the 7th IB. According to Amnesty International's sources these armed Power Spirit members have taken part in military operations with both CHDF members and 7th IB troops.

7.3 'Vigilante' Killings in Leyte

Since March 1987 abuses by "vigilante" groups have been regularly reported from the municipalities of MacArthur and Abuyog on the eastern coast of Leyte province and Burauen in the central mountainous area. In March the Regional Military Commander for the Eastern Visayas announced the formation of the first Barangay Self-Defense Force in the region with the recruitment of 18 men from two barangays in Abuyog. According to his statement, the first two recruits were brothers who were responsible for killing and beheading two men on 17 February whom they accused of being NPA tax collectors. The Commander stated that this Barangay Self-Defense Force would be trained and armed by the military but would then operate without much interference from the armed forces. According to a report in Malaya on 3 July, the same two brothers were responsible also for the beheading on 10 May of an unnamed 50-year-old man in barangay Maitum, on the grounds that he was an NPA member. In June a pastor from the United Church of Christ of the Philippines filed a complaint with the Commission of Human Rights claiming that "vigilante" groups in eastern Leyte had been responsible for the beheading of eight people and the evacuation of hundreds of families from their homes. These "vigilante" groups are often called by more than one name: in Burauen they are called Alsa Masa, Walang Patawad or Tadtads; in MacArthur they are known as Fuerza Masa and in Baybay as the Task Force Liberato. The Mayor of

MacArthur issued a statement on 22 June saying that he had acted on the orders of the military when he had organized the "vigilante" group Fuerza Masa, armed with bolos, to help in the counter-insurgency drive.

Editha Quesebea

Editha Quesebea, who was aged 40 and married, was President of the Church-Related Development Program (affiliated to the KMP) for the barangay of Balao, Burauen. On 21 May 1987 she and her husband were on their way home from their copra farm when they were stopped by a member of a "vigilante" group who wounded her in the shoulder with his machete. Her husband managed to escape, but when he returned later with others they found her with 15 stab wounds and one hand missing. She died later that day. The man who allegedly killed her later surrendered at the police station in Burauen, but no charges were filed. Later a police lieutenant was reported to have claimed responsibility.

Marilyn Negro and Teresita Udtohan

Two farmers--Marilyn Negro, aged 36, and Teresita Udtohan, aged 35--were reported to have been arrested in barangay Matinao, Burauen, by members of a "vigilante" group known as Walang Patawad on 29 May. Both were members of the Alliance of Poor Farmers in Burauen (ALKAPAB) and they were reportedly accused of being NPA supporters. Their bodies were found by a stream in Burauen on 3 July, already in an advanced state of decomposition. One of the heads was missing and the other had been hacked off. The head was no longer recognizable, and the bodies were identified on 6 July only by their clothes. Both bore stab wounds, and Teresita Udtohan, who had been about six months pregnant, had been slashed in the abdomen. Members of the team exhuming the bodies reported being fired on by armed men who they believed were Walang Patawad members.

Emilio Morales

Emilio Morales, a farmer and BAYAN member aged 27, was killed on 27 June 1987 in Palale, MacArthur, Leyte. He had been in Manila visiting relatives and was stopped by Alsa Masa members on his way home. According to the reports of witnesses who said they could identify five of the Alsa Masa members responsible, he was taken to the Palale auditorium where he was handcuffed and interrogated about his alleged involvement with the NPA. After the interrogation the Alsa Masa members reportedly shot him dead, cut off his head and displayed it in the MacArthur Town Hall, claiming that they had killed a communist.

Local residents have said that this Alsa Masa group is based at an army post in Palale, MacArthur. They maintain that neither the military nor civilian authorities in MacArthur have done anything to prevent abuses by the group.

Diosdado Guibao and Eriberto Satusta

Diosdado Guibao and Eriberto Satusta, two next-door neighbours in barangay Salvacion, MacArthur, Leyte, were killed on 28 June 1987 at the boundary between the barangays of Salvacion and Palale. That afternoon a group of 20 armed Alsa Masa members arrived at their homes and ordered them to accompany them to the army post at Palale, saying that the detachment commander wanted to talk to them. The two men, accompanied by their wives Thelma Guibao and Semplicia Setusta, went with the armed men. According to the two women's subsequent affidavits, on reaching the barangay boundary the armed men shot their husbands

dead and one of them tried to stab Thelma Guibao. The men then ordered the two wives to go home and not to report the incident to anyone or they would also be killed. The two women went home leaving their husbands unburied, but the next morning they went to the Palale army post and obtained permission to take their husbands home for burial.

The two widows swore a joint affidavit of complaint before the Leyte provincial prosecutor's office in Palo on 2 July attesting to what they had experienced and naming 11 of the Alsa Masa members allegedly involved. Thelma Guibao, was, however, later arrested on 19 June by Alsa Masa members in barangay Union, La Paz, Leyte, and detained in Mayorga Municipal Jail. According to reports, the police authorities in Mayorga wanted her to admit to being an NPA commander. She was detained until 20 July, when she was transferred to La Paz Municipal Jail and released that day.

Arturo Lonquias

Arturo Lonquias, aged 43 and a farmer in Picas, Abuyog, Leyte, was a member of the peasant organization Kadena Sa Ama. He had been receiving death threats from members of a "vigilante" group known locally as Tadtads, who accused him of being an NPA member. Having decided--for fear his life was at stake--to surrender to the police in Abuyog and seek their protection, he went by boat to Abuyog on 17 July accompanied by the barangay captain of Picas.

On arriving at barangay Pundok, Arturo Lonquias was shot dead by two Tadtads who were named in reports of the incident. According to these reports, they shot him dead as he was disembarking from the boat and then beheaded him. They then took his head to the Abuyog police headquarters but the Abuyog police are reported to have taken no action on the incident.

Erwin Alabat and Danilo Alabat

On 19 July, two brothers, Erwin Alabat, aged 10, and Danilo Alabat, aged 12, from Palale, MacArthur, Leyte, went to a shop in Palale to buy rice with their cousin, Rosalinda Alabat. According to Rosalinda Alabat, they were stopped on the way by an Alsa Masa group who tied them together with a rope and took them away. She herself was able to run away. She named three of the Alsa Masa members and said they were accompanied by a police officer from the MacArthur police force, whom she also named.

The bodies of the two brothers were found two days later in Palale. Rosalinda Alabat is reported to have been drafting a complaint against the Alsa Masa members whom she had identified, but it is not known if any charges have been filed.

7.4 Reported Extrajudicial Executions in North Cotabato

Nestor Genita, aged 29, and an active member of Nagkahiusang Kristiyanong Mag-uma (NAKRIMA), a peasant organization affiliated to the KMP, was killed in barangay Balite, Magpet, North Cotabato, on 18 May 1987, together with his wife, Evangeline Genita, aged 26, an active member of the peasant womens' organization Hugpong sa Nahigmatang Inahan (HUNI), and two children--Jhonilyn, aged 6, and Argie, aged 3.

Neighbours reportedly saw 14 armed, masked men enter the Genita's house and seize some of the occupants. According to the affidavit of one local resident, the armed group included eight CHDF members from the neighbouring barangay Mahongkog, among them the barangay captain of Mahongkog, Nestor Genita and three members of his family were then found dead, their bodies reportedly having been hacked with machetes.

Other local residents stated that several days before this killing some CHDF members in barangay Basale had gone to barangay Balite and accused Nestor Genita of being an NPA member, telling him not to vote for the Partido ng Bayan candidate in the congressional elections on 11 May. On 22 May other CHDF members from Mahongkog reportedly visited barangay Balite and asked local residents where relatives of Nestor Genita lived. They reportedly threatened some of his relatives for allegedly reporting the incident to government officials and for having mentioned it on the radio.

According to reports, the local military authorities denied the allegation that CHDF members had deliberately killed Nestor Genita and three members of his family, saying that there had been an encounter between the NPA and some CHDF members from Mahongkog. This claim was rebutted by Balite residents, including the local officer-in-charge.

7.5 The Debate over 'Vigilantes'

Reports of human rights violations by "vigilante" groups come at a time of intense debate in the Philippines over their role. Those supporting "vigilante" groups cite provisions in the 1987 Constitution on the citizen's duty to protect the state and on freedom of association as the legal basis for such groups. They cite numerous reports of attacks and ambushes by the NPA and the inability of the armed forces to contain the insurgency without civilian assistance as justification for their stance. In a letter to Amnesty International in January 1988, Philippine Ambassador to the United Nations Emmanuel Pelaez quoted a Wall Street Journal article by Araceli Z. Lorayes (3 August 1987) which said, "The grave danger to the left from the vigilante phenomenon is that it is a strategy that works. So far, it has proved more successful in isolating the insurgents from their mass base than the government's former strategies. This is the real reason why what one Manila columnist calls the 'smear-sneer campaign' to disband the vigilantes is only incidental to correct human rights abuses...Its primary aim is to cripple the government's anti-insurgency efforts."

Opponents of "vigilantes" fall into three categories. Those in the first category accept that there may be a need in some cases for civilian defence organizations, but they are concerned about how these groups operate in practice. The Presidential Committee on Human Rights (now disbanded) publicly stated that it had no objection to civilian voluntary defence organizations "provided they are strictly restricted to their respective neighborhoods, are unarmed, and their recruitment is strictly voluntary."

The second category consists of those who are opposed to the concept of civilian defence organizations which they believe is in conflict with the constitutional prohibition on private armies. They believe that the concept of defence against armed attack virtually implies the use of arms in return, which should be the monopoly of the regular armed forces. They fear that civilians ostensibly armed for self-defence might easily become enticed into the service

of politicians or large landowners. Rene V. Sarmiento, a member of the Constitutional Commission and a FLAG lawyer, pointed out in a 1987 paper entitled "The Legality of Vigilante Groups" some of the differences between the vigilantes and a citizen armed force--which is provided for in Article XVI of the 1987 Constitution. He noted that in a citizen armed force there would be an age requirement and procedures for classification, selection, examination and training. "These elements are not present in vigilante groups whose members are not screened and trained, where there is no age requirement, and where there is no system of accountability."

A third group believes that the "vigilante" groups were never intended to be self-defence organizations in the first place but were established as an element of military counter-insurgency strategy to provide an extrajudicial means of identifying, harassing and sometimes eliminating suspected NPA supporters. One proponent of this view in Davao stated in a May 1987 paper, referring to the Alsa Masa: "They have proven an invaluable asset to the military, allowing it to maintain a 'clean' image as the 'New' AFP while the 'dirty work' of intimidation can be left to the Alsa Masa. Alsa Masa members are responsible to no higher authority, and so there is no one to whom a victim can complain, safeguarding both the Alsa Masa and the military from legal prosecution."

Amnesty International recognizes that a government has a responsibility to take measures to counter threats to its security. It believes, however, that it has an equal responsibility to ensure that any groups set up for this purpose obey the law and do not violate human rights. It is disturbed by evidence from throughout the country of cooperation between such groups and the regular armed forces, and believes the government must therefore be held accountable for human rights violations committed by their members.

7.6 Guidelines on 'Self-Defense Organizations'

On 1 April 1987, then Armed Forces Chief of Staff General Fidel V Ramos issued a memo entitled "Guidelines for Civilian Volunteer Self-Defense Organizations". In it, he noted:

"Due to the spontaneous proliferation of these volunteer organizations for community self-defense all over the country, it is necessary to define the police guidelines and limitations for such organizations in order that respect for the law and human rights is observed. Likewise, there is a need to bring them under the joint supervision of local government authorities as well as the military and the police, in order to ensure that their continued assistance in operations are in accord with the Government's security/peace and order, reconciliation and development program."

The guidelines included the following points:

- The leaders and members [of civilian volunteer organizations] must be identified and listed in order to pinpoint responsibility when necessary.
- Membership must be purely voluntary.

- Members must be screened to weed out criminal elements.
- The organization must not engage in any activity contrary to law. Any member who commits any offense punishable by law shall be prosecuted accordingly and shall be separated and barred from future membership.
- The organization shall be under local civil government supervision.
- Only those elements allowed the use of firearms under the law such as licensed firearms holders, military and police reservists, private security guards and regularly appointed CHDF members shall be authorized to be the armed components thereof and shall be under the supervision of the military and police.
- Military supervision shall include the conduct of training in matter such as due process, human rights, survival and self-defence techniques including the use of firearms.
- The organizations shall not usurp police or military prerogatives.
- They shall not be allowed to operate offensively against any group except in the exercise of the right of self-defence of individuals and of the community or in defence of property when attacked or in immediate danger of being attacked.

Another set of guidelines was prepared in May 1987 by an interdepartmental committee composed of representatives of the armed forces, the Departments of Local Government and National Defense and the Commission on Human Rights. These were formally adopted on 30 October 1987 (see Annex 1). In addition to the points included in General Ramos's 1 April 1987 memorandum, the October guidelines call for the provincial commander to submit a monthly report to the Chief of Staff of the Armed Forces on the location, leaders, strength and members of each civilian volunteer self-defence organization, stating which members are authorized to carry firearms. As in the April guidelines, primary responsibility for supervision rests with the local civilian authorities, but the local military authorities are responsible for training in due process, human rights, self-defence techniques--including use of firearms for those authorized, and "teamwork." The Inter-Agency Subcommittee on Civilian Volunteer Self-Defense Organizations is responsible for investigating any departures of the guidelines.

In some areas, civilian authorities have also issued regulations for such organizations. The Cebu Sangguniang Panlalawigan, Provincial Council, for example, issued Ordinance No.02-87 requiring all "vigilante" groups "whether armed or unarmed" to register with the office of the Municipal Mayor by 15 July 1987. After that date, according to the Ordinance, "the existence or formation of such groups shall be prohibited."

Amnesty International believes that such guidelines, both local and national, could, if followed, constitute an important safeguard against the commission of human rights violations; the guidelines, however, are apparently not being observed.

7.6.1 Conformity with the Guidelines

Amnesty International has received several reports indicating that membership of civilian defence organizations in some areas is not entirely voluntary. In two areas people detained on suspicion of being NPA supporters were released on condition that they either join existing Alsa Masa organizations or form new ones in their areas. In Negros the mother of a 12-year old girl detained on

suspicion of being an NPA fighter, was herself detained when she sought her daughter's release. While in detention in an army detachment headquarters she and others were instructed to organize an Alsa Masa group in their community. At a meeting with Amnesty International representatives in July 1987 in Manila Brigadier General Dionisio Tan-Gatue implicitly acknowledged that membership was not always voluntary--he told the representatives that the military had to "convince" people to join and that its methods for doing so were the same as the NPA's because they were competing for the same population. Coercive recruitment may encourage human rights violations if those who refuse to join themselves become targets of abuse.

The Amnesty International representatives found that in some cases not only were criminal elements not discouraged from joining civilian defence organizations but they were even actively encouraged to do so. General Tan-Gatue told the representatives that it was up to the military commander to decide who could join such organizations. In response to Amnesty International's query about a particular case, he said that men in Leyte who had allegedly decapitated two suspected NPA "tax collectors" and who were subsequently recruited into the military-sponsored "Barangay Self-Defense Force" might seem like heroes to local residents. Amnesty International believes that if individuals known to have engaged in activities outside the law, whatever their local support or position within the community, are recruited into military-supported "vigilante" groups, then inevitably the military will be seen to be condoning their actions and suggesting that similar acts may be committed with impunity.

Although the guidelines issued by the government and military on the civilian defence organizations stress their defensive character, many appear to have gone beyond purely defensive activity. The representatives found that in many cases, the extrajudicial killing of suspected NPA members appeared to be in retaliation for the killing by the NPA of relatives of members of the group responsible. The targets of such retaliation, however, were not the NPA fighters themselves whose whereabouts and identity might be difficult to determine, but rather unarmed members of legal, left-wing organizations operating openly in the community. If the military or civilian authorities believe there is prima facie evidence that members of such organizations are aiding or harbouring the insurgents, complaints against them should be filed in court and the suspects accorded due process. The number of unprovoked killings reported to Amnesty International suggests that the principle of civilian defence organizations restricting their activities to non-violent intelligence gathering and nightly patrols is not being observed in practice.

Amnesty International has examined the proposals for training the self-defence organization in Davao del Sur, the Nakasaka. General Recina of Region 11 also described the pulong-pulong or dialogues held between the military and the citizens in communities which express an interest in organizing similar groups. The stress appears to be wholly on the need for vigilance in the face of a communist threat and on what General Recina termed "enlightening the people about the benefits of democracy." Amnesty International believes that the military themselves should emphasize during these dialogues or training sessions that human rights must be respected, that people suspected of involvement in the NPA should be duly arrested and brought before judicial authorities, and that under no circumstances should suspects suffer physical harm. The military should also emphasize that anyone found to have violated human rights will be punished accordingly.

There appear as yet to be no acknowledgements of the link between cult groups such as the Bagrada Corazon Genero Ladlads and the regular military forces and no public statement that the guidelines on civilian self-defence organizations should apply to such groups. Given the number of reported abuses by members of these cult groups and the evidence that they work with both the regular armed forces and "vigilante" groups, it is imperative that strict control and supervision be exercised over them as well and that the military be held equally-accountable for human rights violations committed by them.



A police officer training "vigilantes" in Manila (c: Associated Press)

8. PROCEDURES FOR INVESTIGATION AND REDRESS

In its memorandum to the government following the May 1986 mission, Amnesty International stressed that one safeguard against extrajudicial executions and "disappearances" was the prompt, impartial and effective investigation of all reports of such violations. The memorandum stated: "Governments should . . . try to ensure that as far as possible, potential obstacles to effective investigations are removed from the outset. They should ensure the protection of witnesses and protect them from intimidation, guarantee the cooperation of the security forces implicated and take all measures to ensure that the investigators will have access to all records necessary to prepare the case."

It continued: "International standards demand that all those suspected of involvement in extrajudicial executions or 'disappearances' be prosecuted and that they be removed from any power over potential victims until the allegations are proved unfounded. Those found responsible should be punished, without exception."

These same standards should apply to the investigation and prosecution of members of the paramilitary forces known as "vigilantes", the CHDF and the

various cult groups to which human rights violations are attributed.

The UN Special Rapporteur on Summary or Arbitrary Executions has concluded: "One of the ways in which Governments can show that they want this abhorrent phenomenon of arbitrary or summary executions eliminated is by investigating, holding inquests, prosecuting and punishing those found guilty." He has noted with regret the number of cases drawn to his attention which have not been investigated or adequately investigated.

The UN General Assembly at its 1986 session endorsed the recommendation of the Special Rapporteur on the need to ensure that proper investigations are conducted by the appropriate authorities into all cases of suspicious death and that there are adequate provisions for autopsy.

8.1 Difficulties of Investigations: the Rudy Romano Case

The difficulties of conducting investigations of human rights violations in the Philippines are illustrated by the case of Father Rosaleo "Rudy" Romano. A priest of the Roman Catholic Redemptorist order and vice-president of the Visayas (Central Philippines) chapter of BAYAN, Father Romano "disappeared" in Labangan, Cebu City, on 11 July 1985. On 13 July the Redemptorists reported his "disappearance" to the Regional Unified Commander (RUC 7), suggesting that the military might have been responsible. The RUC commander instructed the PC Metropolitan District Commander (Metrodiscom) in Cebu to investigate.

The Metrodiscom investigation produced a number of leads: one PC captain had seen and identified military agents in the area on the morning of the abduction, and the Metrodiscom investigators concluded that several military and police agents had given inconsistent accounts of their activities.

Despite these discoveries, the RUC commander (the Metrodiscom commander's superior) reported to the armed forces headquarters on 19 July that the Redemptorists' suggestion that the military had been involved was based only on "unconfirmed pieces of information...from people claiming to be at the abduction scene" and maintained that there were no major leads. In April 1986, following the change in government, the Cebu Metrodiscom commander revealed that he had in fact been ordered to stop his investigation by the RUC commander as soon as he had uncovered evidence of military involvement in the abduction.

RUC officials meanwhile had suggested a number of alternative explanations, alleging, for example, that Rudy Romano had staged his own "disappearance" as propaganda for the NPA, that he had gone underground, that the NPA had abducted him or that he had eloped with a female student. All these explanations were rejected by colleagues of Father Rudy Romano and by the NPA itself in a media statement on 19 July.

As military inquiries had not produced Father Romano, lawyers acting for the Redemptorist community lodged a habeas corpus petition before the Supreme Court. At a Supreme Court hearing on 2 August, one witness, Andres Suson, identified a military agent, Corporal William Dagatan, as one of Rudy Romano's abductors, and the PC captain who had assisted the Metrodiscom investigation stated that Corporal William Dagatan and Technical Sergeant Pitogo, both intelligence agents at the RUC headquarters, were in the vicinity of the abduction on the morning of 11 July. Up to five other individuals were



Father Rudy Romano

considered as possible suspects. Despite these developments, the RUC Commander continued to report to the Chief of Staff's office that his office was making no appreciable progress on the investigation. The RUC commander refused to allow an inspection of the intelligence unit (MIG 7) at his headquarters.

Following the revelations made to the Supreme Court, the PC's Criminal Investigative Service was put in charge of the investigation and the military agents Corporal Dagatan and Sergeant Pitogo were arrested. They were then charged with kidnapping before a military commission in Manila in October 1985. After the change of government the two agents were brought to trial in May 1986. Both pleaded not guilty.

During the court martial in August 1986 Attorney Alfonso Surigao, one of two civilian lawyers acting as private prosecutors, had his office in Cebu bombed. When the police were called in, he noted that they seemed more interested in his files on the Romano case than in investigating the bombing. Another lawyer in the case, Attorney Menrado Peredes, received death threats. Important witnesses also were attacked. While the principal witness, Andres Suson, had gone into hiding for his own safety after testifying before the Supreme Court, his brother, Manuel Suson, was shot dead outside his home in Cebu by two armed agents on 9 October 1986, one hour after the military tribunal had inspected the abduction site. Apparently Manuel Suson resembled his brother, and residents assumed that the armed agents were trying to kill Andres Suson. According to an unconfirmed report, one of the armed agents had been seen at a military camp in Cebu City. The day after the killing of Manuel Suson, two witnesses who had previously sworn affidavits identifying the abductors, told the court that they had not seen what had happened. Another witness, Safra, whose full name is not known, was shot at his home in Cebu in June 1987. Needing immediate hospital treatment he was taken away by ambulance, but during the transfer from a local hospital to a regional hospital two motorcycles were

noticed following the ambulance. For fear of further attacks, the ambulance returned to the local hospital.

The civilian lawyers alleged that the military tribunal had adopted procedures which favoured the defence and that the military prosecutors were not thorough in their cross-examination. The military tribunal had decided to hear the case in Manila out of concern for the safety of witnesses, were the case heard in Cebu. The tribunal agreed to inspect the site in Cebu on 9 October 1986, but then announced that it would hear witnesses in Cebu on the following day, even though the private prosecutors were unable to be present. The civilian lawyers therefore withdrew from the case, claiming that the military tribunal was not impartial.

Misleading evidence may also have been planted. One person, who said that he had witnessed the abduction and who gave evidence that the two abductors had not been clearly visible, turned out to be a cousin of the accused, Corporal Dagatan. Although both Corporal Dagatan and Sergeant Pitogo were supposed to be under "technical arrest" at the armed forces' headquarters in Camp Aguinaldo, Quezon City, Metro Manila, one of the two was seen at large in Leyte province during the trial.

In August 1987, the military commission found the two military agents not guilty of kidnapping.

8.2 Obstacles to Investigation

During the coup attempt of 28 August 1987 one of the grievances raised by the rebel soldiers was said to be the granting of amnesty to NPA guerillas while soldiers were being prosecuted for human rights offences. In fact, since the Aquino government came to power in February 1986 not a single military or police officer has been convicted of a human rights offence committed during the Marcos administration or afterwards, to Amnesty International's knowledge. In the few cases where court proceedings have been initiated, witnesses have been harassed, arrested or even killed. In many cases witnesses are afraid to come forward to identify their assailants. Victims or their families have withdrawn cases under pressure. Arrest warrants are not served. Military personnel accused of offences are sometimes allowed to remain on active duty, bearing arms. Investigators often cannot obtain military records. Frequently the investigation of human rights offences appears to collapse before the prosecution stage is ever reached.

The word "investigation" covers a wide range of procedures which may be carried out by many different agencies. If someone is alleged to have been extrajudicially executed, for example, an immediate investigation may be carried out by the police; a national commission of inquiry may be set up, like Task Force Olalia set up to investigate the murder of Rolando Olalia; the Commission on Human Rights may investigate the case on receipt of a complaint or on its own initiative; the National Bureau of Investigation may get involved on receipt of a request from the family of the victim or on the directive of a national agency; and the provincial fiscal (prosecutor) may open an investigation if a civil party has filed a formal complaint. If military or police involvement is suspected, still more agencies may be involved. The Special Action Committees (SACs) of the Regional Unified Commands may investigate a case, but often only if asked to do so by armed forces' headquarters in Manila (the SACs, however,

appear to function only sporadically in some regions and not at all in others; the proposed phasing out of the regional commands may render them completely inoperative.) The Criminal Investigation Service (CIS) of the Philippines Constabulary may also investigate a case on its own initiative. The very range of investigating bodies creates occasional duplication of effort, and sometimes different agencies may work at cross purposes.

The interviews conducted during its December and July missions lead Amnesty International to believe that four factors may have a bearing on the failure of so many investigations to produce results: intimidation of witnesses or their fear to testify; failure to identify specific individuals responsible for human rights abuses; lack of cooperation on the part of the military; and inability to try military personnel in civilian courts. To these may be added a fifth factor, which may be the determining one: lack of the political will on the part of the government to support investigations, prevent intimidation of both investigators and witnesses and require full military cooperation.

8.2.1 Fear of Witnesses to Testify

The fear of witnesses to testify is a major factor in preventing victims and their families from obtaining legal remedies for the violations of their rights. Their fear is often justified--there have been many instances of eye-witnesses in human rights cases having faced threats, harassment, spurious criminal charges, personal injury or death. The experience of the Quinola family is a case in point.

In May 1986 Vilma Boca and Lolita Quinola were shot and stabbed in the Panacan Relocation Area, Davao City, by two youths belonging to an armed gang. Vilma Boca died; Lolita Quinola survived. Charges were filed against the two youths with both the local branch of the Presidential Committee on Human Rights and the prosecutor's office. The prosecutor dismissed the case, reportedly on the grounds that the respondents could not be found, although they were said to have been seen at the local police station after the case was filed. In November the two youths joined other gang members to form the Alsa Masa in Panacan, even though subpoenas ordering them to appear in court had been issued. In April 1987 one of the two was implicated in the death of an indigent resident in the area who had stolen a pair of trousers; he had been beaten up and shot in the stomach and head. This youth was disarmed and detained for a few days before being released and allowed to have his gun back. In May 1987, according to reports received by Amnesty International, Rogelio aged 24, the brother of Lolita Quinola, was tortured and killed by the Alsa Masa, led by the same youth. Rogelio Quinola, an NPA courier who had surrendered to Colonel Calida in Davao a month earlier, was stabbed with broken bottles and shot in the youth's house. The local office of the PCHR, now Commission on Human Rights or CHR, has taken up the case, but the youth responsible for the death of Vilma Boca, the stabbing of Lolita Quinola, the torture and death of the indigent man and the torture and death of Rogelio Quinola is believed to be still at large. The Quinola family will not file charges against him unless they can be assured that the risks and expense they would face would produce results. According to a contact who knows the family, they are discouraged by their experience with the case of Lolita Quinola.

Military and civilian authorities recognize that that the fear of witnesses to testify is a major obstacle to successful investigation, and Amnesty

International representatives were told about several different solutions that have been proposed. The Commission on Human Rights was considering the possibility of a Witness Protection System, whereby individuals who felt themselves to be at risk would be found temporary lodging outside their own areas with all costs borne by the Commission. Unless witnesses with potentially amazing testimony are to become permanent exiles, however, they must return home eventually, and unless the source of the intimidation is removed, the danger to the witness may well persist.

A similar proposal has been under discussion in Davao - that there should be a "witness house" with special security arrangements where witnesses can stay if they feel afraid.

A legal approach now being increasingly adopted is that of "perpetuating" witness testimony. A witness can give evidence once at a pre-trial hearing before a judge. If the testimony is formally "perpetuated" the witness need not make repeated appearances in court, this reduces the risk of being exposed to harassment. This method is being employed in the investigation of the Lupao killings.

Another solution proposed has been a "safe conduct" pass whereby the civilian authorities would take public responsibility for the safety of a witness.

Protecting the witness is the "curative" side of the solution; restraining or deterring potential intimidators may be the "preventive" side. Amnesty International learned of several instances in which soldiers or police accused of human rights violations were permitted to continue their regular activities and keep their guns. Amnesty International representatives were told that there was no legal way to prevent this because a station commander could always order a subordinate, temporarily suspended when charges were filed against him, to resume active duty on the grounds of needing additional staff. Amnesty International finds this explanation unacceptable.

8.2.2 Failure to Identify Individuals Alleged Responsible for Human Rights Abuses

Many investigations appear to collapse because of the complainants' inability to identify specific individuals alleged to have been responsible for human rights abuses. Fear of witnesses to come forward with information is one factor, but there are others, including, it seems insufficient use of subpoena powers and lack of cooperation by the military.

The inability of investigators to identify members of the security forces who actually fired upon the Mendiola marchers in January 1987 when video-tapes of the incident exist has been criticized even by some members of the government. They suggested that the Citizen's Mendiola Commission, the national board of inquiry set up by the President to investigate the case, or the NBI which took over the task, had perhaps failed to make full use of subpoena powers. To have subpoenaed personnel files, which are supposed to contain photographs of each soldier, for all the military units in charge of policing the demonstration, might have helped identification, according to some sources.

Police identification parades are another method which might help to identify defendants. These are not compulsory in an investigation, but prompt

identification parades would seem essential in a case with many eye witnesses such as the Lupao killings. To Amnesty International's knowledge, no identification parade has taken place in that case and there is serious doubt as to whether individual respondents can now be identified.

8.2.3 Lack of Cooperation by the Military

In some cases the armed forces have refused to provide evidence, failed to serve warrants of arrest on suspected offenders or allowed alleged offenders to remain on active duty.

A case in point is that of Moises Arienza, aged 27, a farmer from Cabangahan, Badong, Tago in Surigao del Sur. On 17 October 1986 he was reported missing from his home. His dismembered body was found two kilometres away in the Kandugya River on 26 October. Cabangahan villagers reported that at least 15 armed members of the CHDF and the Airborne Division of the army had been conducting operations there on the day Moises Arienza "disappeared". One man, Clementino Salag, told the police that he saw Moises Arienza bound hand and foot and gagged in the custody of the armed men at 5.30am on that day. He named the leader of the men--a local CHDF member whose son had been killed the month before, apparently by the NPA.

A complaint against the CHDF leader was filed by the mother of Moises Arienza. In a court hearing in March 1987 the provincial prosecutor decided there was sufficient prima facie evidence to charge the CHDF leader with murder. The man had presented documents indicating that he had been in the custody of the Airborne Division following his arrest the previous June for the murder of a Scout Ranger. The Scout Rangers are an elite unit of the army. He had been on guard duty at the Airborne Division headquarters, he claimed, during the week of Moises Arienza "disappeared". The prosecutor decided, however, that he had reported for guard duty only on the afternoon of 17 October, and therefore he could have been released by the Airborne Division in order to participate in military operations in Cabangahan on 16 and 17 October.

A warrant for his arrest was issued, but by the end of 1987 it had not been served. The man was still at large and on active duty with the CHDF, and witnesses to the incident had received death threats.

Allegations of lack of military cooperation have also been made in the case of Rolando Olalia, the KMU leader who was shot dead on 12 November 1986 on the outskirts of Manila. His driver, Leonor Alay-ay, was also shot dead some distance away. A PC sergeant, Franco Espartero, identified by eye-witnesses as the man who had shot Leonor Alay-ay, was arrested on 18 December 1986 and is still in custody. Proceedings against him have begun in Antipolo Regional Trial Court. Three other suspects have been identified but all are still at large. They include a former military intelligence agent and two marine sergeants. There have been reports that the military has prevented lawyers for the Olalia family from gaining access to the records of these suspects.

Another example of apparent military failure to take action against a human rights offender is the case of Armando Dulay, former Governor of Quirino Province under the Marcos government who was accused of kidnapping and killing three men campaigning against President Marcos in February 1986. He was arrested in March that year and detained in Camp Crame, headquarters of the

Philippines Constabulary in Manila, but he was reported to have "escaped" short / afterwards and to have fled to Hawaii where the former President was living in exile. He was rearrested when he returned to the Philippines a year later in March 1987, but although he was supposed to be in detention at the PC stockade in the capital of Quirino, in fact he had complete freedom of movement throughout the province. The military ordered his arrest only after his reported takeover of the provincial capital during the unsuccessful coup attempt of August 1987.

8.2.4 Jurisdiction over Military Cases

Many people stressed to Amnesty International representatives that a major obstacle to human rights investigations and prosecutions was the fact that Presidential Decree 1850 was still in force. Issued by President Marcos in 1981, PD 1850 requires all military and police personnel to be tried by military courts, regardless of the offence of which they are accused. In March 1987 Amnesty International wrote to Secretary of Justice Sedfrey Ordenez expressing concern that this practice might reduce the chances of effectively prosecuting military offenders.

FLAG lawyers filed a petition before the Supreme Court to have PD 1850 declared illegal. As of December 1987 the Supreme Court had not acted on the petition.

Until the decree is repealed or declared illegal, there are three ways in which members of the armed forces can be brought before civilian judges. They can be temporarily dismissed from the forces, thus enabling them to be tried by civilian courts. Although some military commanders have agreed to this procedure in principle, no one can be summarily dismissed from the forces on mere suspicion. Since it can take as much time to build an adequate case for dismissal as it would to prepare a court case, this procedure seems to be rarely used. Amnesty International knows of one case where pressure from the then PCHR did result in a soldier's dismissal, with the result that he is now being tried by a civilian court.

A second possibility is for the President to issue a waiver of jurisdiction, effectively transferring adjudication of the case to a civil court. Such waivers were issued in the "Escalante Massacre" (an incident in 1985 where government forces opened fire on demonstrators in Escalante, Negros Occidental, killing more than 20), the Aquino assassination and the killing of human rights lawyer Zorro Aguilar and journalist Jacobo Amatong, both of Dipolog City, in September 1984. In the last case, in which witnesses identified three members of the intelligence unit of the 44th Infantry Battalion as responsible for the murders, the PCHR's initial request for a waiver in July 1986 was refused on the grounds that charges had already been filed in a military court. Later, however, the waiver was issued anyway, so the criteria for when and how a waiver can be issued remain unclear.

A third possibility is to bring a civil suit for damages rather than a criminal case. Lawyers in Negros were experimenting with this technique when Amnesty International representatives visited in July 1987.

8.2.5 A Successful Prosecution

One of the few human rights cases to result in convictions was that of Father Tullio Favali, an Italian priest mutilated and killed by former CHDF members in Tulunan, North Cotabato on 11 April 1985. Eight men were arraigned on 3 October 1985 and pleaded not guilty. After a lengthy trial the eight were sentenced to life imprisonment on 4 September 1987.

The case had a bizarre sequel, however. Tullio Favali's successor, Father Luciano Ghezzi began receiving death threats while the trial was still under way, and in September 1987 a 16-year-old girl, believed to be a friend of the convicted CHDF members, brought rape and illegal detention charges against three priests including Father Ghezzi, two nuns and six church workers. All were arrested except Father Ghezzi, who was in Italy at the time, and held for almost a month until the provincial prosecutor for North Cotabato ordered the charges to be dropped saying that the girl's story was "not only erratic but conflicting, with a tendency to exaggerate and prevaricate" (Manila Chronicle 10 October 1987). Many observers believed the charges had been brought in retaliation for the convictions in the Favali case.

9. CONCLUSIONS AND RECOMMENDATIONS

The Aquino government has made some very real progress in the field of human rights, particularly in restoring legal safeguards such as habeas corpus and in greatly reducing the occurrence of torture. These achievements should not be underestimated. Amnesty International is disturbed, however, by the high incidence of apparent extrajudicial executions--mostly of suspected members of left-wing organizations--by members of the security forces or members of civilian paramilitary groups acting in cooperation with the armed forces. Investigations into these killings rarely lead to prosecutions; prosecutions rarely lead to convictions. In its 1981 report on the Philippines, Amnesty International noted "a growing cynicism in many quarters about the efficacy of redress through legal channels". Amnesty International representatives visiting the country in 1987 noticed a similar cynicism re-emerging.

Amnesty International is aware of the military's concern that human rights organizations spend a disproportionate amount of resources on documenting offences by the armed forces while ignoring offences by armed opposition groups committed to the violent overthrow of the government. Amnesty International believes, however, that it is in the interests of the armed forces to ensure that its members respect human rights. Abuses by the military are widely believed to have been a factor in the growth of the NPA in the early 1980s, and abuses by paramilitary "vigilante" groups are causing these forces themselves to become targets of NPA attacks. Effective investigations of reported human rights violations and the punishment of offenders might break the cycle of killings and reprisals for which both sides have been responsible.

Amnesty International believes there are several measures the Philippines Government could adopt to deal with the problem of widespread human rights violations.

1. The Philippines Government should publicly reiterate its commitment to protecting human rights. In a situation where charges of human rights violations by the government or the NPA are treated as expressions of political

partisanshp, the gravity of the loss of life and other fundamental rights can be downplayed, as can the need to deal seriously with the protection of possible victims and prosecution of suspected offenders. An unequivocal reaffirmation by the President of the government's intention to uphold international human rights standards, the Bill of Rights in the 1987 Constitution and other human rights-related laws could help to depoliticize the issue of human rights.

2. Discussions should be held at the highest level of government on how to enforce existing safeguards for the protection of human rights, since ultimately their effective enforcement is one measure of the degree of government will to respect human rights.

The accession by the government of President Aquino to such international instruments as the International Covenant on Civil and Political Rights, the Convention Against Torture, and the Additional Protocol II to the Geneva Conventions was a laudable step forward. The government must now ensure that all members of the regular armed forces and the civilian defence groups whose formation it has encouraged act in accordance with the relevant provisions of these instruments.

3. The October 1987 guidelines issued by the Inter-Agency Committee on Civilian Volunteer Self-Defense Organizations should be followed and enforceable sanctions should be introduced where applicable. For example, the guidelines state that "members must be screened to weed out 'criminal elements'". It would be useful to include a definition of who constitutes a "criminal element" and some indication of what steps would be taken if the organization were found to be recruiting such a person.

4. The government should publicly condemn and take action to halt all illegal acts by "vigilante" groups.

5. The principle of chain-of-command responsibility should be enshrined in law, as recommended in Part II(14) of Resolution CHR-1 (April 1986) of the Presidential Committee of Human Rights which states: "Discipline immediate superiors of those found guilty of perpetrating [human rights violations] unless they prove they have taken every reasonable precaution to prevent the acts".

6. Investigations into reports of human rights violations involving members of the security forces or civilian groups operating in conjunction with them should be conducted by impartial agencies independent of the security forces and appointed by civilian authorities at either national or local level.

7. Given the difficulties encountered by several task forces appointed by President Aquino to investigate highly publicized cases of alleged human rights violations, an independent panel should be established to review the composition and methods of these task forces and try to discover where there have been major stumbling blocks in investigations in the past and what might be done to avoid such obstacles in the future.

8. Serious attention should be given to developing practical and affordable means of protecting witnesses. The arrest, harassment, death or "disappearance" of key witnesses at any stage of a hearing or trial should, as a matter of routine, prompt an immediate investigation by an impartial agency not connected to the security forces, prosecution or defence.

9. Any member of the military or police accused of human rights offences should be tried by a civilian court as military courts in the Philippines do not have a record of effective prosecution in such cases. Amnesty International therefore recommends the repeal of Presidential Decree 1850 defining the jurisdiction of courts martial over members of the Armed Forces of the Philippines. Until such time as the decree is repealed, Amnesty International recommends that the President exercise her right to waive the jurisdiction of military courts in cases involving grave human rights abuse.

10. There should be strict observance of Article 8 of the UN Code of Conduct for Law Enforcement Officials, which states that such officials shall "to the best of their capability, prevent and rigorously oppose any violations" of law and human rights, and, if they have reason to believe that a violation of the Code of Conduct has occurred, "shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial power." An agency independent of the security forces, such as the Commission on Human Rights, could be designated the "appropriate authority" to receive such reports, and law enforcement officials should be required to report any action (or failure to act) by members of the police, military or forces under their command which appears to abet or conceal extrajudicial executions. For example, the following situations should be reported:

-- where members of the armed forces witness an extrajudicial execution but fail to do anything to apprehend the perpetrators;

-- where members of the Integrated National Police fail to make all reasonable efforts to serve arrest warrants issued by the courts for suspected killers;

-- where members of the security forces fail to take adequate measures to disarm or detain suspected killers, either their own subordinates or members of civilian organizations linked to the local military, pending investigation and trial in order to ensure they are not in a position to take reprisals against their accusers;

-- where members of the military, police or civilian organizations working with them in any way hinder efforts to bring suspected killers to justice.

11. Amnesty International welcomes the steps that the Philippines Government has already taken to require human rights education for all military and police personnel. It recommends, however, that this training should include not merely instruction about the provisions of relevant domestic and international law, but also teaching and discussion about how these provisions can be implemented and on what punishments should be imposed if they are violated.

APPENDIX I

Republic of the Philippines
INTER-AGENCY SUBCOMMITTEE ON CIVILIAN
VOLUNTEER SELF-DEFENSE ORGANIZATIONS
CHR, University of Life Complex
Pasig, Metro Manila

GUIDELINES ON CIVILIAN VOLUNTEER SELF-DEFENSE ORGANIZATIONS

I. References:

- A. The Constitution of the Republic of the Philippines
- B. Commonwealth Act No. 1 (The National Defense Act).
- C. Executive Order No. 727 dated 10 September 1981.
- D. Executive Order Nos. 1012 & 1027; City and Town Defense Plan.
- E. Presidential Letter of Instruction No. 1435 dated 27 October 1984.
- F. Presidential Decree No. 1016 dated 22 September 1976,
- G. Presidential Decree No. 1866 dated 27 June 1983 and its implementing Rules and Regulations.
- H. Revised Penal Code, as amended.
- J. Civil Code, as amended.
- K. Batas Pambansa Blg. 6.

II. Background:

- A. Insurgency, terrorism and other forms of lawlessness continue to plague our country thereby hindering the attainment of a desirable condition of peace and order and security, making more difficult the establishment of an atmosphere of stability under which civil government can function effectively, and frustrating the advancement of economic growth.
- B. By the end of February 1987, the number of insurgent-affected barangays nationwide

increased to some 8,496 or about 20% of the 41,818 barangays countrywide.

- C. The recent increase in the number of insurgent terrorist-instigated violent incidents indicates that the rebels do not intend to abandon, and, in fact, are intensifying their program of violence and the armed struggle as one of the means of attaining their political objectives.
- D. On the basis of the fundamental concept of the inherent rights of citizens, singly or collectively, to self-defense, and on their constitutional duty to defend the State, civilians in many parts of the country have formed themselves into volunteer organizations for community self-defense against criminals and other lawless elements. Such organizations have enhanced the campaign for peace and order in their respective localities.
- F. Due to the spontaneous proliferation of these volunteer organizations for community self defense all over the country, it is necessary to define the policy guidelines and limitations for such organizations, in order that respect for the law and human rights is observed. Likewise, there is a need to bring them under the joint supervision of local government authorities as well as the military and the police, in order to ensure that their continued assistance is in accord with the government's security/peace and order, reconciliation and development programs.

III. Concept:

- A. The fight against terrorists and illegal armed groups require the maximum commitment not only of those in the government service, but just as importantly, of the concerned citizens of the private sector. Consequently, on account of their functions under the law, those in the government particularly those at the local level to include the elements of the Armed Forces of the Philippines (AFP) and the Integrated National Police (INP) should lead the citizenry in their effort to maintain peace and order in their respective communities.
- B. The 1986 Constitution, the National Defense

Act, as amended, the Revised Barrio Charter, the Local Government Code, the Revised Administrative Code and other laws recognize the duty of the Government to serve and protect the people as well as the duty of the Armed Forces of the Philippines as protector of the State and people, the right and duty of each barangay captain to lead and organize an emergency group whenever the same may be necessary for the maintenance of peace and order within the barangay, and the right of a lawful possessor or owner of a property to use force as may be reasonably necessary to repel or prevent an actual or threatened unlawful physical invasion or usurpation of his property.

- C. The Government recognize that the provisions of the above-cited laws which are consistent with the Constitution serve as the legal basis for encouraging and supporting civilians in organizing themselves for self-defense against criminals and other lawless elements.

IV. Guidelines:

In this connection, military commanders are directed to strictly observe and comply with the following guidelines in rendering assistance to civilians desirous of organizing themselves into civilian volunteer organizations for the purpose of protecting themselves against threats from criminals and other lawless elements as may be necessary:

- A. Such volunteer organizations must be properly organized and shall be exclusively for self-defense and protection. The leaders, key officials and members thereof, especially those authorized to carry firearms must be identified and listed in order to pinpoint responsibility when needed. Membership in the organization must be purely voluntary and members must be thoroughly screened to weed out criminal elements. A built-in system of policing themselves must be established.
- B. They must not engage in any activity contrary to law. All their activities, whether individually with the law and subject to the pertinent provisions of the Revised Penal Code, as amended, and other existing laws. Any member who commits any

offense punishable by law shall be prosecuted accordingly and shall be separated and barred from future membership in the organization, if warranted. Civilian volunteer organizations are encouraged to support the military and the police by collecting intelligence information, giving early warning, conducting ronda and similar neighborhood watch activities, helping in public information, providing emergency safety, medical and transportation services, and supporting the community development projects.

- C. Normally, the volunteer organizations shall be under local civil government supervision and their activities must be sanctioned by the barangay and municipal authorities, and coordinated with the local military and police authorities. In each civilian volunteer organization, only those elements allowed the use of firearms under the law such as licensed firearms holders, military and police reservists, and private security guards shall be authorized to be the armed component thereof, and shall be under the supervision of the military and the police. In any case, the possession of firearms and the carrying of same outside of residence shall be in accordance with Presidential Decree No. 1866 and its implementing Rules and Regulations (Possession and Carrying of Firearms) and as further governed by the pertinent resolution of the Commission of elections (COMELEC). Military supervision shall include the conduct of training in matters emphasizing the following, among others:

1. Due process according to Philippine laws;
2. Human rights;
3. Survival and self-defense techniques, including the use of firearms for those authorized as outlined above;
4. Teamwork and unity.

In Addition:

1. They shall not encroach upon government functions and processes, such as the electoral process, and they shall not

usurp police or military powers and prerogatives.

2. They shall not be allowed to operate offensively against any threat group except in the exercise of the right of self-defense of individuals and of the community or in the defense of property when attacked or in imminent danger of being attacked;
3. They shall not be allowed to operate outside their own or adjoining barangays where their members reside, except in cases of hot pursuit;
4. They shall take passive protective and security measures against all threats;
5. They shall consult the concerned Fiscal, CLAO Attorney, IBP representative and/or military/police lawyers in the community for legal advice;
6. They shall avoid being identified as private armies or political groups.

V. Reports:

A monthly report on the location, leaders, strengths and members of each civilian volunteer self-defense organization identifying those authorized to carry firearms shall be submitted NLT the 10th of the succeeding month by the Provincial Commander to the Chief of Staff, AFP, copy furnished: RUC/RECOM Commander; CPC; ODCS CMO (J-7); and DND.

VI. Monitoring Mechanism:

In order that the guidelines and safeguards may be carried out properly, the Inter-Agency Sub-Committee on Citizens' Volunteer Groups is set up to be composed of representatives from the Armed Forces of the Philippines, Department of National Defense, Department of Local Governments and the Commission on Human Rights. The Department of Local Government shall take the lead in the implementation of these guidelines.

There shall also be set up Regional Monitoring Sub-Committee to be composed of representatives from the Armed Forces of the Philippines, Department of Local Governments and

the Commission on Human Rights.

The Department of Local Government is making available its regional offices and facilities for the use of the Regional Monitoring Sub-Committees.

The Inter-Agency Sub-Committee on Citizens' Volunteer Groups and its regional sub-committees shall have the following functions:

1. Implement and enforce the guidelines;
2. Investigate complaints of violations thereto;
3. Submit their findings and recommendations to the appropriate government agency;
4. Submit recommendations for the effective implementation and enforcement of the guidelines; and
5. Perform such other functions as may be required by the government agencies signing this Guidelines.

VII. Violations:

Any violations of these guidelines shall be dealt with under the applicable civil, criminal, administrative or any other special law including rules and regulations in implementation thereof.

VIII. Effectivity:

This Guidelines on Civilian Volunteer Self-Defense Organizations shall take effect immediately upon approval thereof by the signatories to the Inter-Agency Sub-Committee on Civilian Volunteer Self-Defense Organizations.

ISSUED on this the 30th day of October 1987, at Mandaluyong, Metro Manila, Philippines.

RAFAEL M. ILETO Secretary of National Defense	LITO C. LORENZANA Acting Secretary of Local Governments
MARY CONCEPCION BAUTISTA Acting Chairman Commission on Human Rights	

WITNESSED BY:	
GENERAL FIDEL V. RAMOS Chief of Staff Armed Forces of the Philippines	SAIDEMAN PANGARUNGAN Undersecretary Department of Local Governments

APPENDIX 2

EXTERNAL (for General Distribution)

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October 1986

HUMAN RIGHTS VIOLATIONS IN THE PHILIPPINESMEMORANDUM SUBMITTED TO THE GOVERNMENT OF THE PHILIPPINES FOLLOWING A MISSION TO MANILA, 9-18 MAY 1986

A delegation from Amnesty International visited the Philippines between 9 and 18 May 1986 to meet with senior government officials and representatives of non-governmental organizations. The objectives of the mission were to learn about measures undertaken or proposed by the Aquino government related to the protection of human rights; to better understand developments since the change in government on 25 February 1986 which might affect the human rights situation in the Philippines; to share Amnesty International's knowledge about the experience of other countries which have worked to improve the human rights situation following a long period of severe violations; and to use that knowledge and the information gathered during the mission to make recommendations to the government about further safeguards it might wish to consider.

This memorandum presents a summary of Amnesty International's findings and recommendations. In submitting it to the Government of the Philippines, Amnesty International wishes to express its appreciation of the positive steps taken thus far by the government toward the defence and protection of human rights. Members of the delegation would also like to express their gratitude for the time made available to them by members of the government, the serious attention given to the discussions, and the spirit of cordiality and cooperation in which they were received.

Amnesty International's Secretary General Thomas Hammarberg and two members of the International Secretariat staff met with President Corazon Aquino and Atty. Joker Arroyo, Executive Secretary to the President; General Fidel Ramos, Chief of Staff of the Armed Forces of the Philippines (AFP), together with Deputy Chief of Staff Brigadier General Salvador Mison, Brigadier General Jose Almonte, Brigadier General Samuel Soriano, Judge-Advocate General, and other AFP officers; Juan Ponce Enrile, Minister of National Defense, Deputy Minister General Rafael Iletto, Brigadier General Eduardo Ermita and other defense ministry personnel; Atty. Neptali Gonzales, Minister of Justice; Silvestre Bello III, Deputy Minister of Justice; Chief Justice Claudio Teehankee; Dr. Mita Pardo de Tavera, Minister of Social Services; and other officials, both civilian and military.

The delegation met with Senator Jose Diokno, Chairman of the Presidential Committee on Human Rights, and members of the Committee. It also held talks with officials of non-governmental organizations working on human rights issues including Task Force Detainees (TFD) of the Philippines; the Free Legal Assistance Group (FLAG); Families of Victims of Involuntary Disappearances (FIND); BALAY, an organization which provides medical services and psychiatric counselling to ex-political detainees; and the

Medical Action Group, a group of doctors whose activities include assistance to torture victims. The delegation met with leaders of political parties and cause-oriented groups including UNIDO and Lakas ng Sambayanan, and with members of the academic community at the University of the Philippines and Ateneo de Manila, including Father Joaquin Bernas, S.J.

Amnesty International is grateful for the willingness of these organizations and individuals to meet with the delegation and provide information and material that assisted delegation members in understanding the current human rights situation.

Background to Amnesty International's Work on the Philippines

Amnesty International works on behalf of prisoners. It advocates the immediate and unconditional release of "prisoners of conscience", men and women detained for their political or religious beliefs who have not used or advocated violence. It advocates fair and prompt trials for all political prisoners and campaigns against torture and other cruel, inhuman or degrading treatment, including the death penalty, of all prisoners without exception.

Amnesty International had been active in working on behalf of political prisoners in the Philippines after the imposition of martial law by then President Ferdinand Marcos on 21 September 1972. Its concerns initially focused on the arbitrary detention of thousands of "prisoners of conscience", men and women detained solely for their non-violent opposition to the government. Senator Benigno Aquino Jr and Senator Jose Diokno were two early "prisoners of conscience" adopted by Amnesty International. An Amnesty International mission to the Philippines in late 1975 found that torture of detainees was widespread, and was frequently employed when people were being held in secret holding centres called "safehouses" immediately following their arrest (see Report of an Amnesty International Mission to the Republic of The Philippines, 22 November-5 December 1975).

In the latter years of martial law, Amnesty International received an increasing number of reports of "disappearances" and extrajudicial executions. An Amnesty International mission to the Philippines in late 1981, following the lifting of martial law, found that severe and systematic violations of human rights continued by members of the security forces and paramilitary groups operating under their command (see Report of an Amnesty International Mission to The Republic of the Philippines, 11-28 November 1981). In the last year of the Marcos Government, Amnesty International was working on behalf of 23 "prisoners of conscience" and investigating the cases of many other political prisoners, most of them detained under Preventive Detention Actions (PDAs) or Presidential Commitment Orders (PCOs), both of which authorized the indefinite detention without charge or trial of persons suspected of national security offences. It documented and publicized many cases of torture of political detainees, "disappearances" and extrajudicial executions, and it pressed for an abolition of the death penalty and commutation of all existing death sentences.

Recent Developments

On 25 February 1986, President Aquino assumed office, having during the presidential election campaign expressed a strong commitment to the protection of human rights. Within a week, she had ordered the release of all political prisoners and had signed Executive Order No. 1, restoring the writ of habeas corpus and thereby ending the use of PDAs (although the

decree creating the PDA remains to be formally repealed) The new government has announced its ratification of the International Covenant on Civil and Political Rights (ICCPR), together with its Optional Protocol which enables the Human Rights Committee to consider at closed meetings communications from individuals who claim to be the victims of violations of rights set forth in the ICCPR. Amnesty International regards the ratification of the ICCPR and the Optional Protocol as an important indication of the government's commitment to the recognition of human rights as an international concern that transcends national boundaries.

With Executive Order No. 8, President Aquino established the Presidential Committee on Human Rights (PCHR), and authorized it to investigate reports of both past and present human rights abuses and to propose new measures and safeguards to ensure that human rights are not violated by officers or agents of the new government. In its first interim report (Resolution CHR-No.1, 14 April 1986), the seven-person Committee, chaired by Senator Diokno, proposed several measures to improve compliance with or strengthen existing law related to human rights. The measures included the disarming and disbanding of paramilitary units, banning secret arrests and detention and incommunicado detention, suspending from office those charged with violations of human rights and increasing the penalties for those convicted of human rights abuses, making certain rights non-derogable even under martial law, allowing inspection of all detention centres, and ratifying Protocol II Additional to the Geneva Conventions, which includes provisions regulating the treatment of prisoners in armed conflicts of a non-international character. The resolution also called for the introduction of human rights education into the formal education system and the education and training of all arresting and investigating personnel in national and international standards relating to human rights.

Amnesty International believes that thorough investigations of reports of abuses can lead to an understanding of the factors contributing to the massive and systematic human rights violations of the past and thus help to prevent their recurrence. It also believes that prosecution of suspected offenders affirms a government's adherence to the principle that crimes committed by agents of the government against people in their custody are not less serious than other crimes. Some members of the military expressed concern that investigations might affect the morale of their troops. General Ramos told the delegation that because many in the military felt that extended investigations would "paralyze" them in their counterinsurgency efforts, it was important to remove the undesirable elements in the military as soon as possible and not draw the process out interminably. Amnesty International also notes the view expressed by some members of the armed forces that only a thorough investigation of past abuses can fully restore the reputation and image of the military, tarnished during the Marcos years in part by allegations of human rights abuses.

The importance of investigations and of developing human rights safeguards based on the information they reveal is underscored by the fact that human rights violations by security forces--torture, "disappearances", and extrajudicial executions--in areas affected by the insurgency continue to be reported.

Amnesty International is aware of reports of abuses by the New People's Army (NPA) including torture and killing of suspected informants, landlords and local officials. Amnesty International, as a matter of principle, condemns the torture or execution of prisoners by anyone, including opposition groups. Amnesty International bases its work, however, on

international standards through which governments, by ratification or accession, take on responsibilities and obligations with regard to the protection of human rights. Violation by governments of internationally recognized rights are thus the focus of Amnesty International's attention, while abuses by opposition groups come within the jurisdiction of the national government to determine criminal responsibility and bring those responsible to justice. Abuses by opposition groups, however serious, cannot be used to justify violations by government agents of such non-derogable rights as the right to life, the right not to be subject to torture and other cruel, inhuman or degrading treatment or the right to be recognized as a person before the law.

The issues discussed by the delegation during the mission are summarized below under the headings (A) Prisoners of Conscience and Other Political Prisoners; (B) Fair Trials; (C) Torture; (D) "Disappearances" and Extrajudicial Executions; (E) The Death Penalty; and (F) International Human Rights Instruments.

A. PRISONERS OF CONSCIENCE AND OTHER POLITICAL PRISONERS

During martial law, over 50,000 people were arrested, 30,000 of them in the first three weeks by the government's own estimates. Many were held incommunicado and tortured; many were held for long periods without charge or trial before being released; and many were tried and convicted by military tribunals and sentenced to lengthy terms of imprisonment. Even after the lifting of martial law in 1981, indefinite detention without charge or trial of people suspected of national security offences continued under presidential decrees and proclamations which had the force of law under Amendment 6 of the 1973 Constitution. Two such proclamations, No. 2045 and 2045-A, suspended the writ of habeas corpus with respect to those detained on suspicion of committing rebellion, subversion or insurrection. Under the terms of the proclamations, the President could issue Presidential Orders of Arrest (POA) and Presidential Commitment Orders (PCO) which authorized the detention of persons suspected of national security offences without regard to the courts. In 1983, the PCO was abolished, although Proclamation No.2045 remained in force until nullified by President Aquino in her Executive Order No. 1. In place of the PCO, however, President Marcos created the Preventive Detention Action (PDA) under Presidential Decree No.1877 which again authorized the President to order the detention of suspected national security offenders without recourse to judicial processes. In some cases, people detained under a PDA but ordered released by the courts continued to be held by the military on the grounds that only the President could order the lifting of a PDA. In other cases, people detained initially on criminal charges later had a PDA issued against them to justify their continued detention for political reasons and remove the possibility that they could be released on bail. The opposite situation also applied, however. An Amnesty International mission to the Philippines in mid-1985 found that some political prisoners were being detained on criminal charges such as cattle-rustling; local human rights groups suggested that some provincial officials and military personnel were anxious, in part because of international attention to political prisoners to show a reduction in statistics on the latter.

At the time of the change in government, Amnesty International was working for the release of 23 prisoners of conscience, including human rights lawyers in Davao and Abra, people who had participated in rallies organized by a peasant union based in Central Luzon, farmers who had been

members of local credit and self-help organizations in Cebu, and trade union organizers in Manila. Amnesty International was also investigating the cases of many other political prisoners to determine whether the offences for which they had been arrested involved the use or advocacy of violence; to urge that they should receive a fair and prompt trial; and if already tried, to ascertain whether the trial was fairly conducted.

Following President Aquino's order that all political prisoners, over 500 prisoners were freed. The names of the released prisoners had been submitted by Task Force Detainees to a review panel headed by former Senator Jovita Salonga and included all who had been detained under a PCO, PDA, or the martial law-era Arrest, Search and Seizure Order (ASSO).

The Amnesty International delegation discussed the issue of remaining political prisoners with members of the government, the PCHR and representatives of local human rights organizations. All recognized that some political prisoners remained in detention, most charged with criminal offences. Discussion centered on the number of remaining detainees properly to be regarded as political prisoners and the procedures for reviewing cases to determine whether a prisoner had been legitimately charged with or convicted of a criminal offence or whether such charges had been brought for political reasons.

Staff of Task Force Detainees (TFD) told the delegation that they had compiled a list of 479 remaining political detainees and that many of the names on the list had reached them after the initial releases had been ordered, in part because people were more willing to come forward with information after the change in government. Amnesty International understands that TFD's figures on remaining detainees have continued to rise since the delegation's visit. Some members of the government expressed fears that criminal offenders might be taking advantage of the clemency shown political prisoners by claiming political status for themselves.

Senator Diokno informed the delegation that the release of remaining political prisoners was the first priority of the PCHR and grouped the prisoners in three categories: those recently arrested against whom there was no formal charge; those awaiting trial; and those serving sentences following conviction. The PCHR has recommended that those in the first group be released unless a case has been filed in court or objections are raised by authorities holding them. It has asked fiscals in regional trial courts to suspend the cases against the second group until an appropriate government policy can be formulated; those in the second group charged with non-bailable offences should be released in the cognizance of their lawyer or an official appointed by the government. The PCHR has recommended that the President consider granting pardons in appropriate cases to those in the third group.

A strong commitment to review individual cases of remaining prisoners was evident among all those with whom the delegation met, although it was not altogether clear where primary responsibility for initiating the review should lie: the PCHR, the Ministry of Justice, the fiscals, or the lawyers of the accused. Several officials and representatives of human rights organizations voiced concern about the time required to review so many cases, and the delegation was told that a task force had been set up within the Ministry of Justice to study the delay in releasing remaining detainees. The task force is understood to have representatives from the PCHR and TFD among other non-governmental groups, as well as from the Ministry of National Defense and Ministry of Justice.

In addition to the political prisoners convicted of or charged with criminal offences before the regular criminal courts, some prisoners convicted by military tribunals during the martial law period remain in detention in the National Penitentiary in Muntinlupa. The delegation was told that most of these cases were already under review, but the Minister of Justice told the delegation that records of some prisoners could not be traced, and there might thus no longer be any evidence on which to base a review. For such prisoners, the Minister said that the recommendation of executive clemency would be considered. The Minister noted that procedures both for applying for pardons and for granting them were under review.

There no longer appear to be any legal grounds for arrest and detention of people without recourse to judicial procedures, but several presidential decrees promulgated by former President Marcos remain in force which affect the penalties for political offences and the treatment of political offenders. The delegation was told that all of these decrees were being reviewed by the Ministry of Justice and were likely to be repealed; the PCHR has since recommended repeal in its second interim report (Resolution No. CHR-2, 22 May 1986). Among the decrees recommended for repeal are those authorizing the issuance of PDAs; those defining the crimes of rebellion and subversion and increasing the penalties from those set forth in the Criminal Code; those providing for trial by courts-martial of members of the Armed Forces of the Philippines (AFP) and Integrated National Police (INP) charged with offences relating to the performance of their duties, and those prohibiting the granting of permits for public rallies to those charged with or found guilty of rebellion, sedition or subversion.

Amnesty International seeks to secure observance of the provisions of the International Covenant on Civil and Political Rights in its work against arbitrary arrest and detention. Article 9 of the ICCPR, in particular, states *inter alia* that everyone has the right to liberty and security of person; that anyone who is arrested is to be informed, at the time of arrest, of the reasons for his arrest and is to be promptly informed of any charges against him; that anyone arrested or detained on a criminal charge is to be brought promptly before a judge and is to be entitled to trial within a reasonable time or to release; and that anyone who is deprived of his liberty by arrest or detention is to be entitled to take proceedings before a court in order that the court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

Amnesty International believes that the steps already taken by the government to restore the writ of *habeas corpus* and the measures recommended by the PCHR for enforcing and strengthening existing law with regard to procedures for arrest and detention would guarantee many of the fundamental rights enshrined in the ICCPR, including Article 9. For example, the PCHR has recommended that the Rules on Criminal Procedure, which state that no one may arrest or detain anyone except by the authority of a warrant of arrest issued by a competent judge, save in those cases where arrests without warrant are specifically authorized, be strictly enforced. The PCHR has also recommended more stringent enforcement of the provision in the Rules on Criminal Procedure which state that the immediate family of persons arrested and lawyers, doctors and religious advisers of their choice are to be permitted to visit the detained persons without hindrance. These rules in effect during the previous government, frequently were not observed.

In its recommendations for strengthening existing law the PCHR has

recommended shortening the allowable period within which all arrests and apprehensions should be reported to judicial authorities and to the family, organization or religious order of the person arrested. The PCHR has also recommended that reports of such arrests be made available to all interested persons.

Pre-trial detention, in the words of the Human Rights Committee in general comment 8(16) on Article 9, "should be an exception and as short as possible." When such detention is deemed necessary, governments should follow the provisions of the United Nations Standard Minimum Rules for the Treatment of Prisoners. Those provisions state that unconvicted prisoners are presumed to be innocent and are to be treated as such, that they are to be allowed to inform their families immediately of their detention, that they are to be given all reasonable facilities for communicating with their families and friends and for receiving visits from them, and that they are to be allowed to receive visits from their legal advisers. They also contain provisions relating to standards that prisons should maintain with regard to food, medical treatment, accommodation, exercise and contact with the outside world.

Several people with whom the delegation met expressed concern over prison conditions in the Philippines, particularly in municipal and provincial jails. Amnesty International believes that inadequate food allowances, medical treatment and sanitary conditions in prisons can constitute cruel, inhuman or degrading treatment of prisoners, and believes that governments should make every effort to ensure that the Standard Minimum Rules are enforced.

An area expected to be considered by the Constitutional Commission is the executive proclamation of martial law or a state of emergency. Whatever the procedures for such a proclamation, international human rights standards emphasize that even under states of emergency, certain fundamental human rights of prisoners and of the population at large must be respected. The ICCPR states that governments which have become parties to the ICCPR may not derogate from their obligations to respect certain articles, even in states of public emergency which threaten the life of the nation. These non-derogable rights include the right to life, the right not to be subjected to cruel, inhuman or degrading treatment or punishment, the right to be recognized as a person before the law and the right to freedom of thought, conscience and religion. Any state which is party to the ICCPR and which in calling a state of emergency derogates from any of its other provisions, such as the right to a fair trial, must inform the Secretary-General of the United Nations, giving reasons why such derogation is considered necessary.

(B) FAIR AND PROMPT TRIAL

Throughout the martial law period, Amnesty International had been primarily concerned with detention of prisoners without trial or trial by military tribunals, staffed entirely by military personnel who in some cases had no legal training, and with appeals not to civilian appellate courts but to the Ministry (then called Department) of National Defense. Although detention without trial remained a concern following the lifting of martial law, Amnesty International was also concerned about the length of trial proceedings and about the factors compromising the independence of the judiciary in political cases brought before civilian courts. A major judicial reorganization in 1981 eliminated any security of tenure for judges

and made all judges dependent on President Marcos for their appointment and continuation in office.

When President Aquino took office, all judges were required to submit courtesy resignations but the delegation was told that few have been accepted. Minister Gonzales now chairs a committee responsible for a major judicial reorganization which involves the screening of all judges, sheriffs and clerks, dismissals as appropriate and appointments to vacant posts. This process is to be completed within the one-year transition period allowed under President Aquino's Proclamation No. 3, the "Freedom Constitution", which abolished the National Assembly (Batasan Pambansa), provided for a Constitutional Commission to be appointed and gave the President wide-ranging powers until a new Constitution can be adopted and a new legislature elected. The screening committee includes, in addition to Minister Gonzales and the Solicitor General, representatives from the Integrated Bar of the Philippines, the Philippines Bar Association, FLAG, TFD and the business community.

In addition to the reorganization of the civilian judiciary, the delegation was told by the military and by the PCHR that some changes had been proposed regarding the jurisdiction of military courts. Under Presidential Decree No. 1850 of 1981, all cases involving military and police personnel were to be tried in military courts. The only exceptions General Ramos told the delegation, were highly publicized cases or those involving a combination of civilian and military suspects, in which cases it had been AFP policy under the Marcos government to recommend to the President that they be tried in civilian courts to avoid the impression of a military "whitewash".

The PCHR has now proposed that Presidential Decree No. 1850 be abolished and that jurisdiction over military offenders be determined according to the law in force prior to 1981, under which civilian and military courts would have concurrent jurisdiction over military personnel charged with criminal offences rather than with offences directly related to their military service, such as desertion or insubordination. Whichever court the case was filed in first would try the case. The PCHR has recommended that even under martial law, military courts should be prohibited from trying civilians.

The PCHR has also recommended that the President issue a letter of instruction requiring all investigative personnel to complete their initial investigations speedily and stating that no person should be detained longer than the penalty provided for in the law for the offence with which he or she is charged.

Safeguards

An independent judiciary is an essential prerequisite to a fair trial. The Basic Principles on the Independence of the Judiciary, adopted in September 1985 by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and endorsed by the United Nations General Assembly on 29 November 1985, provide a useful set of guidelines against which to measure judicial independence. These principles state, among other things, that the judiciary should be able to decide all matters impartially on the basis of facts "without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter" and that there should be no revision of judicial decisions. They also state that the term of office of judges, their

independence, security, remuneration, conditions of service, pensions and age of retirement should be adequately secured by law, with tenure guaranteed until a mandatory retirement age or expiry of their term of office.

Amnesty International understands that the frequently undue length of trial proceedings which characterized the judicial process under the previous government was the result of many factors, including in some cases the deliberate procrastination of defence lawyers in order to avoid exposing their clients to an unfair trial and the likelihood of conviction and heavy sentence. It also realizes that some of the underlying causes of delays in trial proceedings are likely to be addressed in the review of the judiciary now being carried out by the Ministry of Justice and various agencies, governmental and non-governmental, working with it.

Nevertheless, given the provision in the Philippine Bill of Rights concerning the right to a speedy trial and in the ICCPR concerning the right to trial "within a reasonable time or to release", Amnesty International recommends that the government undertake all possible measures to ensure that these provisions are respected. Amnesty International recognizes that the definition of "reasonable time" varies widely from country to country but in general, the phrase implies that when the accused is in detention, special diligence must be exerted by the authorities to bring about a trial without undue delay.

The Human Rights Committee notes in its general comment 13(21) on Article 14 that the guarantee in the ICCPR of a fair trial without undue delay "relates not only to the time by which a trial should commence, but also the time by which it should end and judgement be rendered."

(C) TORTURE

Throughout the martial law period and afterwards, Amnesty International received allegations of torture and ill-treatment of prisoners, especially those suspected of being members of the banned Communist Party of the Philippines (CPP) or its armed wing, the NPA. People suspected of possessing arms or documents relating to the CPP or NPA, or of having aided the insurgency in any way, were also at risk. Torture tended to take place in the period immediately following arrest during "tactical interrogation" usually carried out by composite military teams which included personnel from the various military intelligence units. During such interrogation, prisoners were often held incommunicado in secret and unauthorized holding places known as "safehouses". After the lifting of martial law, reports of torture persisted, although more often involving torture carried out on the premises of military camps or barracks than in "safehouses".

Safeguards

The frequent use of torture by security forces took place despite constitutional and legal safeguards against it, suggesting that additional measures are needed. The 1973 Philippines Constitution forbade torture and stated that any confession obtained involuntarily would be inadmissible as evidence; there was nevertheless strong evidence that many people were detained as "subversives" on the basis of confessions extracted while prisoners were undergoing torture.

The remarks of the Human Rights Committee in general comment 7(16) on Article 7 of the ICCPR regarding torture or ill treatment are pertinent:

"The Committee notes that it is not sufficient for the implementation of this article to prohibit such treatment or punishment or to make it a crime. Most States have penal provisions which are applicable to cases of torture or similar practices. Because such cases nevertheless occur, it follows from article 7...that States must ensure an effective protection through some machinery of control. Complaints about ill-treatment must be investigated effectively by competent authorities. Those found guilty must be held responsible, and the alleged victims must themselves have effective remedies at their disposal, including the right to obtain compensation. Among the safeguards which may make control effective are provisions against detention incommunicado, granting, without prejudice to the investigation, persons such as doctors, lawyers and family members access to the detainees; provisions requiring that detainees should be held in places that are publicly recognized and that their names and places of detention should be entered in a central register available to persons concerned, such as relatives; provisions making confessions or other evidence obtained through torture or other treatment contrary to article 7 inadmissible in court and measures of training and instruction of law enforcement officials not to apply such treatment."

Amnesty International has called upon all governments to implement all measures, including many of those recommended by the Human Rights Committee and others included in the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and other international standards, which might serve to prevent torture from occurring. A copy of the organization's 12-Point Program is appended as Annex 1.

The 12-Point Program recommends official condemnation of torture at the highest levels. In this regard, the delegation welcomed President Aquino's statement during its visit that she "will never condone torture."

Amnesty International recommends that stringent limits be placed on incommunicado detention, since in its experience, torture or other ill-treatment is most likely to occur during the first hours or days of detention. It is therefore vital that there be prompt access after arrest by a medical officer and by the detainee's family and legal adviser. It is also essential that all prisoners be brought before a judicial authority promptly after being taken into custody.

The 12-Point Program urges a ban on secret detention. In the Philippines, this would mean a prohibition on the use of "safehouses", a measure recommended by the PCHR in its first interim report.

Safeguards during interrogation and custody should be implemented. Such safeguards would ensure that governments keep procedures for detention and interrogation under regular review, prisoners be promptly informed of their rights including the right to lodge complaints about their treatment and regular visits of inspection to places of detention be made. Amnesty International believes that an important safeguard against torture would be

the separation of authorities responsible for detention from those responsible for interrogation. It is particularly important that internal security organizations such as the recently disbanded National Intelligence and Security Authority (NISA) not be given responsibility for both detention and interrogation of political suspects. Amnesty International welcomed the abolition of NISA soon after the change in government, as NISA personnel had been linked to many, but by no means all, cases of torture.

Amnesty International considers that there should be independent investigations into reports of torture, in keeping with Article 12 of the United Nations Convention against Torture which states, "Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction." Although the PCHR, under its mandate, is authorized to investigate present as well as past abuses of human rights, it is not designed to be a permanent body, and Amnesty International believes that procedures for investigation of human rights abuses must be institutionalized.

As part of the 12-Point Program, Amnesty International recommends the prohibition of torture in law and that governments prohibit the use of statements extracted under torture, as the PCHR has recommended in its first interim report. Such prohibitions would meet the provisions of Articles 4 and 15 of the Convention Against Torture. It also believes that suspected torturers should be prosecuted in accordance with Article 6 of the Convention Against Torture which states that criminal proceedings are to be instituted against anyone alleged to have committed an act of torture.

Amnesty International believes that training procedures should be implemented for all officials involved in the custody, interrogation or treatment of prisoners in which it is stressed that torture is a criminal act and that any orders to commit torture should be refused. It welcomed both the assurance of General Ramos that training procedures for the military included an introduction to the Code of Conduct for Law Enforcement Officials and the recommendation of the PCHR that human rights education courses for investigative personnel include an emphasis on the illegality of torture. The delegation has since learned that President Aquino has ordered the Ministry of National Defense to include a human rights component in all police and military training programs and as a subject in civil service entry examinations.

The delegation also raised the question of access by independent medical personnel to detention centres where political prisoners are held, as such access was often refused under the previous government. Amnesty International recommends that government or military agencies responsible for arrest and detention ensure that all detainees have access to a doctor independent of the security forces immediately upon arrest, at regular intervals thereafter, and before release from detention, and that they be provided with appropriate medical treatment at all times. The doctor's examination should be fully documented and should be available to the authorities responsible for the custody of prisoners and those responsible for investigating allegations of torture.

(D) EXTRAJUDICIAL EXECUTIONS AND "DISAPPEARANCES"

Amnesty International uses the term "extrajudicial execution" to refer to intentional killings, carried out by order of a government or with its

complicity, outside the judicial process. In the Philippines such killings are called "salvagings" but the terms are not interchangeable. A trade unionist killed by a member of the Civilian Home Defense Force (CHDF) for personal reasons, while the killer was intoxicated, or while he was acting as a security guard for the local plantation owner might be considered a "salvaging"; it would not be termed an extrajudicial execution by Amnesty International because the complicity of the government or armed forces could not be demonstrated.

Likewise, Amnesty International uses the term "disappearance" to refer to cases in which there are reasonable grounds to believe that individuals have been taken into custody or abducted by government or military authorities or by people acting on their orders, and the authorities subsequently deny any knowledge of their fate or whereabouts. A political activist who goes missing under mysterious circumstances would not be considered to have "disappeared" by Amnesty International unless these conditions are met.

"Disappearances" and extrajudicial executions are frequently related, as victims of the latter may be secretly abducted and held in unauthorized detention centres such as "safehouses" before being killed. The delegation was told that in the Philippines, after a person had "disappeared" for six months without any news, he or she generally was feared dead.

Task Force Detainees compiled a list of 602 names of "disappeared" persons which it submitted to the PCHR soon after the latter was established. The total number has declined to about 550 as careful checking by units of TFD and consultation with families has revealed some duplication of names and some persons whose reappearance had not been reported. Senator Diokno told the delegation that the PCHR would try to obtain additional information about those on the list by a careful survey of reported safehouses in cooperation with the National Bureau of Investigation, checking with lawyers who might have knowledge of military leases on buildings to be used as safehouses, and interviews with former prisoners and with military personnel. The delegation mentioned that advances in forensic technology enables even long-dead bodies to be identified, and that as mass graves such as those in Cavite were revealed, those techniques might be applied and some of the "disappeared" thus might be traced.

The delegation was informed by officials of families of victims of Involuntary Disappearances (FIND) that lawsuits are beginning to be brought by FIND against military personnel believed responsible for the "disappearance" of relatives.

In the Philippines, extrajudicial executions and "disappearances" are also related in that reports of both kinds of abuses have frequently cited members of the Civilian Home Defense Force (CHDF) as the perpetrators. The delegation raised the question of the CHDF and its future both with members of the military and Ministry of National Defense and with the PCHR. All acknowledged that some abuses have been attributable to CHDF members, but different solutions have been proposed. The PCHR has recommended to the President that the CHDF and other paramilitary units be disbanded and Minister Enrile told the delegation that the CHDF should continue to exist but with new procedures for recruitment and training. General Ramos elaborated on these procedures, noting that potential recruits would undergo careful screening and that people would be appointed for periods of three months instead of one year. He told the delegation that the name of

the CNOF would be changed to Peoples Local Security Force to help remove the stigma attached to the old name. He said a careful study of the placement and numbers of the CNOF was in progress and noted that some of the local government officials known as Officers-in-Charge (OICs), appointed by the new government to hold office until local elections can be held, had requested additional CNOF members for their area. General Ramos also told the delegation that he has proposed that CNOF members, who are considered civilians, be subjected to the Articles of War, the legal code providing for the punishment of military offenders.

The delegation raised questions about procedures for reporting arrests by military officers and ensuring the well-being of detainees. Minister Enrile stated that with the release of political detainees, the office within the military responsible for delivering arrested persons to proper places of detention and for reporting arrests, the Command for the Administration of Detainees (CAD), had been abolished. He noted that the military was now looking to the PCHR to suggest appropriate procedures and safeguards.

Safeguards

In Amnesty International's experience, governments need to institute specific safeguards to prevent extrajudicial executions and "disappearances" from occurring. These safeguards are set forth in various international instruments including the International Covenant on Civil and Political Rights and the "General Comments" on the ICCPR made by the Human Rights Committee; the United Nations Standard Minimum Rules for the Treatment of Prisoners; the Geneva Conventions and Additional Protocols; the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the Code of Conduct for Law Enforcement Officials.

Following those standards, Amnesty International believes that all governments should ensure that all reports of possible extrajudicial executions and "disappearances" be impartially and effectively investigated. In "disappearance" cases, such investigations need to begin as promptly as possible since the longer victims remain missing, the greater the danger to them and the graver the consequences both economic and psychological for their families. Governments should also try to ensure that as far as possible potential obstacles to effective investigations are removed from the outset. They should ensure the protection of witnesses and protect them from intimidation, guarantee the cooperation of the security forces implicated, and take all measures necessary to ensure that the investigators will have access to all records necessary to prepare a case.

International standards demand that all those suspected of involvement in extrajudicial executions or "disappearances" be prosecuted and that they be removed from any power over potential victims until the allegations are proved unfounded. Those found responsible should be punished, without exception.

Governments should ensure strict control, including clear chain-of-command responsibility, over all officials responsible for the arrest, custody, interrogation or treatment of prisoners as well as over all persons officially authorized to use deadly force or provided with weapons by officials or official agencies. All such persons should be trained in methods of law enforcement which do not violate human rights and

should be given clear instructions to refuse to obey orders which would result in human rights abuses. Article 5 of the Code of Conduct for Law Enforcement Officials, for example, states that "no law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment."

Arresting authorities, whether in uniform or plainclothes, must identify themselves at the time of arrest, and the concealment of identity by any means or failure to identify themselves should be made a punishable offence.

Special protection should be offered to individuals and groups who are in danger of extrajudicial execution or abduction by security forces or paramilitary groups.

Secret detention should be absolutely prohibited. Governments should ensure that prisoners are held in publicly recognized places and that a central registry be maintained with records on all arrests which can be made available to civilians, including judges, lawyers, relatives and other concerned people. All arrests and detentions must be reported without delay to judicial authorities and families must be promptly informed. Families and lawyers must also be informed each time a prisoner is transferred from one place of detention to another and must have access to the prisoner.

Governments should keep procedures for arrest, interrogation and custody under review and should set these down in written regulations, with disciplinary measures taken against officials who fail to comply with them.

Families and dependants of victims of extrajudicial executions and "disappearances" should be afforded compensation.

Amnesty International welcomes the recommendation made by the PCHR in its first interim report to enact many of the above safeguards into law (On the PCHR's recommendations with regard to arrest and detention, see p.6 of this memorandum.)

Enforcement of any legislation, however, is as important as its enactment and requires the cooperation of all branches of the government. In this regard, it is worth citing the 9 December 1983 Report of the United Nations Working Group on Enforced or Involuntary Disappearances (UN Document E/CN.4/1984/21), which notes, "The occurrence of government-connected disappearances is a sign of the breakdown not only of the security or police services directly responsible, but also of the judiciary and executive in their responsibility for ensuring respect for law and order. Each arm of the government has a role to play in preventing or ending disappearances."

(E) THE DEATH PENALTY

Although the death penalty is still imposed with some frequency, particularly for murder, there have been no executions in the Philippines since 1976. Many of the officials with whom the delegation met were personally opposed to capital punishment but did not believe early abolition of the death penalty in the Philippines was likely. Abolition of the death

penalty did not appear to be a matter of current public debate or controversy.

A number of countries have incorporated provisions prohibiting the death penalty in their constitutions, and Amnesty International has prepared and forwarded a recommendation to the Constitutional Commission that capital punishment be formally abolished in the new constitution that the Commission is currently drafting. In its recommendation, Amnesty International states its unconditional opposition to the death penalty and its belief that every execution violates fundamental human rights: the right to life and the right not to be subjected to torture or to any other cruel, inhuman or degrading treatment or punishment. Amnesty International is aware of the reasons advanced for maintaining the death penalty but has not found any evidence that it serves any penal purpose which would not be served by lesser penalties. Research has shown that it does not deter crime more effectively than other punishments, and it denies the widely accepted principle of rehabilitating the offender. It frequently falls disproportionately on the poor and disadvantaged who lack the legal and financial resources needed to mount an adequate defence. There is always a risk of error, despite the most careful legal safeguards, which can never be corrected once an innocent person has been executed.

Amnesty International believes that the death penalty is degrading on all who are involved in the process: prisoners, relatives, lawyers, witnesses, prison officials and executioners. It is not only the execution itself that is a measure of extreme cruelty but the experience of awaiting execution, which has been likened to a living death.

In 1971, the United Nations General Assembly in resolution 2857 (XXVII) affirmed the desirability of abolishing the death penalty, and this resolution that was reaffirmed by the General Assembly in 1977. Since 1975, at least one country per year has abolished the death penalty in law or, having done so for ordinary offences, has gone on to abolish it for all offences. Among the 28 countries which prohibit the death penalty are Mexico, Brazil, Nicaragua, Peru, Spain, Norway, Portugal, France, Fiji, Australia, Vanuatu, Tuvalu, Kiribati and Papua New Guinea. Amnesty International believes that a decision by the Philippines Government to abolish the death penalty through a constitutional provision would be further evidence of its commitment to protect human rights and would be an important precedent for the region. As an interim measure, it recommends that the government review and commute all outstanding death sentences.

F. INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

Amnesty International believes that ratification by governments of international human rights instruments are an affirmation to the international community of their determination to respect the dignity and worth of the individual.

Amnesty International has welcomed announcements that the Aquino Government has ratified the International Covenant on Civil and Political Rights and Optional Protocol and acceded to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Amnesty International believes that the various human rights mechanisms set up by the United Nations can play an important role in advancing the protection of internationally recognized human rights, in some cases by

supporting the efforts of national human rights organizations. These mechanisms include the UN Human Rights Commission, the Human Rights Committee established under the ICCPR, the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on Summary and Arbitrary Executions and the Special Rapporteur on Torture. The active participation of governments, like that of the Philippines, with a commitment to human rights deepened by the experience of massive violations in the past, can play a particularly useful role in debate within such mechanisms.

Amnesty International recommends that the government consider inviting a delegation of the UN Working Group on Enforced or Involuntary Disappearances to the Philippines to discuss ways in which the Group might lend support to the government's efforts to trace "disappeared" persons and to discuss means of facilitating communication between the Group and the government with regard to the former's requests about information on missing persons. Similar invitations could be extended to the Special Rapporteurs on Summary and Arbitrary Executions and on Torture.

SUMMARY AND CONCLUSIONS

Amnesty International believes that the institution of legal and constitutional safeguards to protect fundamental human rights is essential. These rights include the right to life, the right to be protected from torture and other cruel, inhuman or degrading treatment or punishment, the right to freedom from arbitrary arrest and detention, the right to a fair trial, and the right to freedom of opinion and expression.

The institution of such safeguards, however, is not sufficient to guarantee that human rights will be protected. They must also be enforced. Under the previous government in the Philippines, the gap between the law and its application was vast. The 1985 Rules on Criminal Procedure guaranteed the right of prisoners to be visited by family and counsel and to be brought before a judicial authority within 18 hours, many people were held instead in "safehouses" or in incommunicado detention for weeks or months at a time. The Philippines formally adopted the Code of Conduct for Law Enforcement Officials in June 1980 via a directive from the General Ramos, then Chief of the Philippine Constabulary which stated,

"The Code of Conduct for Law Enforcement Officials is hereby adopted as a body of principles to be observed and applied by each and every member of the PC/INP Command in the performance of their duties as law enforcement officers."

Nevertheless, members of the security forces were responsible for many abuses under the previous government. The will to defend human rights was clearly lacking.

The determination to ensure that massive human rights violations do not occur again is evident among many officials of the Aquino government. At the same time, there is a determination to end the insurgency by reconciliation if possible, by force if necessary. Neither means should be at the expense of protecting human rights. Reconciliation must involve justice for victims of human rights abuses of the past and acknowledgement of the gravity of the offences committed against them. The use of force must be accompanied by a respect for the life and dignity of the human person.

In any armed conflict such as exists in some areas of the Philippines, it is sometimes difficult to distinguish initially between a death during combat or in an "encounter"; an accidental death in a combat zone; an unintentional death resulting from the excessive use of force by security personnel; or a deliberate extrajudicial execution of a person in custody. It is in such situations that prompt, thorough and impartial investigations become, if anything, even more imperative.

Amnesty International has noted above that cases of extrajudicial executions, "disappearances" and torture continue to be reported. There was strong evidence that the previous government deliberately engaged in or tolerated such abuses; the present government has stated that they will not be condoned. With the announced ratification of the ICCPR and the accession to the Convention Against Torture, the establishment of the Presidential Committee on Human Rights and its proposed measures for protecting human rights, Amnesty International believes that much of the necessary foundation has been laid to make the prevention of human rights abuses possible. It trusts that all levels of the government will continue to give the commitment and priority necessary to building upon that foundation.

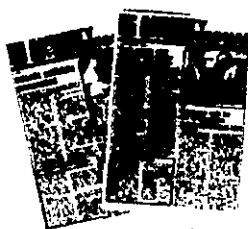
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