

# Probing Political Persecution, Repression & Human Rights Violations in the Philippines

Report of the Women's Human Rights Delegation of the Center for Constitutional Rights, National Lawyers Guild & the International Association of Democratic Lawyers

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# SEEKING ANSWERS: Probing Political Persecution, Repression & Human Rights Violations in the Philippines

## Executive Summary

### I. Introduction

There is a human rights crisis in the Philippines. Since Gloria Macapagal Arroyo assumed the presidency in 2001, there have been more than 750 extrajudicial killings. Activists, community leaders, organizers, lawyers, journalists, development workers and human rights workers have been assassinated. Progressive members of Congress are being prosecuted on rebellion charges and legal opposition organizations are being threatened.

In response, four women lawyers—representing the National Lawyers Guild, the Center for Constitutional Rights and the International Association of Democratic Lawyers—traveled to the Philippines from May 25 to June 2, 2006, to investigate the prosecution, the extrajudicial killings, the targeting of women leaders and the Philippine and the U.S. Government's role in these human rights violations. This mission was organized by GABRIELA Network and co-sponsored by the Vanguard Foundation. In the Philippines, it was hosted by GABRIELA, Philippines and the Gabriela Women's Party.

### II. The Prosecution of the Batasan 6

President Gloria Macapagal Arroyo, vice president under Joseph Estrada, came into office when the "People's Power II" mass demonstrations forced the ouster of Estrada in 2001. It is widely believed that President Arroyo won re-election in 2004 by fraud, and there have been continuing calls for her impeachment.

In 2004, six members of progressive popular organizations running as party-list candidates (sectoral representatives, elected at-large) were elected to the Philippine Congress: Liza Maza of the Gabriela Women's Party (GWP); Saturnino Ocampo, Joel Virador and Teodoro Casiño of Bayan Muna (People First, the major left coalition); and Crispin Beltran and Rafael Mariano of Anakpawis (Toiling Masses, representing workers and peasants).

In February 2006, President Arroyo declared a State of Emergency (SOE), claiming to have foiled a left-right coup conspiracy. Representative Crispin Beltran, a 71-year-old labor leader, was arrested without a warrant and has been detained ever since. The other five progressive party-list representatives were threatened with warrantless arrest and forced to seek protective custody inside the House of Representatives headquarters, the Batasan. Although the SOE was shortly lifted, the Batasan 6, as they came to be called, were charged with rebellion. 46 others, including

many leaders of legal progressive organizations, have been named in the charges and threatened with arrest. Several of those named have since been killed or disappeared.

There is a 37-year-old insurgency in the Philippines led by the Communist Party of the Philippines and its armed wing, the New Peoples Army (CPP/NPA). As a key partner in the United States War on Terror, President Arroyo has stated that her government will wipe out this insurgency within the next two years. The Arroyo regime has repeatedly publicly conflated the mass opposition movement -- including the Batasan 6, elected members of Congress—with the armed insurgency, in apparent justification of a policy of extermination of both armed combatants and civilian above ground activists.

The delegation examined the hundreds of documents proffered by the government in support of its claim that the Batasan 6 and other left leaders are agents of the communist insurgency involved in a conspiracy with right wing soldiers to overthrow the Arroyo government by violent or illegal means. The documents show only that there has been a long-term armed conflict between the government and the NPA. Despite the lack of credible evidence, the rebellion prosecution continues, shunted from judge to judge through the highly inefficient Philippine court system, hampering the elected legislators' and the popular organizations' ability to advocate against Arroyo's policies and for the interests of women, youth, the poor and working people. The delegation found that the charges are being brought as part of an attempt by the government to suppress and eliminate all opposition, even legal opposition through the political process.

### III. Oplan Bantay Laya and Extrajudicial Killings of Progressive Party-List Members, Lawyers, Judges and Human Rights Activists.

**A. Oplan Bantay Laya:** The Arroyo government's policy of eliminating those opposing its policies is made clear in a counter-insurgency plan launched in 2002 as part of the U.S.-initiated "War on Terror": Oplan Bantay Laya (Operation Plan Freedom Watch). The five-year plan is intended to provide a "holistic approach combining the political, security, socio-economic-psychosocial elements"—*making no distinction between armed combatants and civilians*. Seven "NPA stronghold" regions were identified as priority areas for implementation of the plan, and since the plan began, each of these regions have seen escalating numbers of killings of civilians, including many members of the left-leaning popular organizations which the plan and accompanying propaganda materials allege to be "communist fronts".

**B. Killings of Lawyers and Judges:** The attacks are not limited to political party activists, but extend to human rights lawyers or judges who have been involved in human rights work and/or cases where government interests are at stake. Since President Arroyo came to power in 2001, at least fifteen lawyers and ten judges have been killed. The lead lawyer for the Batasan 6 has been the target of repeated assassination attempts.

**C. Killings of Activists:** Killings of other government critics have similarly continued to escalate. Since 2001, hundreds of activists with progressive organizations have been murdered, including trade union leaders, human rights activists, church workers, indigenous leaders, hundreds of civilians, farm worker and peasant leaders. During the delegation's week-long stay in Manila, two more people were killed, and since then the frequency of assassinations has escalated further. For example, on July 31, 2006, three people were shot and killed in three different provinces: a political activist with Bayan Muna; a student active with the League of Filipino Students; and a photojournalist.

**D. Attacks on Women:** The delegation is particularly concerned about the attacks on women and women activists. 80 women have been assassinated since Arroyo assumed the presidency. Of these, 38 were from the organized women's movement or the Gabriela Women's Party (GWP). As the sole sectoral representative of women in Congress, the attacks on Liza Maza are particularly troubling, as are the charges against officers of the GWP, one of only a half dozen women's political parties in the world. The delegation is also closely watching the trial of four U.S. servicemen accused of raping a young Filipina in November, 2005.

**E. The Government's Explanation:** The government maintains that the killings are the result of strife within the CPP/ NPA. However, both the government's own Commission on Human Rights and the Filipino human rights group KARAPATAN have documented a striking pattern connecting the Philippine government and military to these killings. Moreover, to date, not one perpetrator has been brought to trial or removed from military service.

#### **IV. Arroyo's Proposed Charter Change and its Threat to Philippine Democracy**

President Arroyo has proposed amending the Philippine Constitution, or Charter Change. This would be the fifth constitutional change in less than one hundred years. The change would extend Arroyo's term of office and weaken or eliminate the party-list system, which provides congressional seats to under-represented sectors. The proposal would also remove the constitutional provision that bans foreign troops from the Philippines and precludes the establishment of U.S. military bases on Philippine soil. The delegation concluded that the proposed Charter Change is yet another attempt by the government to eliminate opposition and gain more power.

#### **V. The Role of the United States**

The Philippines, a former U.S. colony, is one of its most important allies. In January 2002, Presidents Bush and Arroyo jointly declared the Philippines the "second front" in the U.S. War on Terror. Since that time there has been a 2,000 percent increase in U.S. military aid to the Philippines, not including a large amount of military equipment the United States is provid

ing. The Philippines is now the fourth largest recipient of U.S. military assistance in the world.

#### **V. Recommendations**

1. The National Lawyers Guild, the Center for Constitutional Rights and the International Association of Democratic Lawyers call on international human rights organizations, including the United Nations Commission on Human Rights, to continue to monitor and publicize the escalating repression in the Philippines.

2. Immediate strong action is needed to end the continued killings of civilians and the persecution of popularly elected leaders. The United States, the United Nations and other international bodies must demand that:

a. The groundless cases against the Batasan 6 and other members of legal opposition organizations be dropped and Crispin Beltran be released immediately;

b. The Philippine Government take responsibility for protecting human rights by convening, empowering and supporting a fully independent body to investigate the killings, threats and harassment against civilians, including the military and national police role, by suspending implicated military leaders while their role is being investigated, and by following through with prosecutions of those responsible.

3. The National Lawyers Guild, the Center for Constitutional Rights and the International Association of Democratic Lawyers call on the U.S. Congress to investigate the use of U.S. funding for Philippine military operations against the legal opposition being conducted under the guise of the War on Terror. The United States must condemn the killings of civilian activists and the baseless prosecutions of elected legislators. In light of the strong evidence that the killings are being carried out by Philippine military and paramilitary death squads under Philippine Government policy, the United States should suspend military support to the Arroyo administration that may be used to crush legitimate political opposition.

# Table of Contents

<b>Table of Contents</b>	4
<b>Introduction</b>	5
<b>Political Context</b>	5
<b>What are the Party-Lists?</b>	6
<b>The Role of Lisa Maza</b>	6
<b>The Prosecution of the Batasan 6</b>	7
The Warrantless Arrest of Ka Bel	7
The Protracted Litigation of the Rebellion Cases	8
The “Evidence” Against the Batasan 6	9
The Significance of the Batasan 6 Prosecution	10
<b>Oplan Bantay Laya</b>	10
Land Redistribution Struggles Lead to Increasing Repression	11
<b>The Extrajudicial Killings</b>	11
Attacks on the Legal Profession	12
Attacks on Journalists	12
Targeting Activists	12
The Military is Behind the Killings	12
Response of the Philippine Government and the United States	13
<b>Charter Change: A Threat to Philippine Democracy</b>	14
Why Does Arroyo Want to Change the Constitution?	14
<b>The Role of The United States</b>	15
<b>Conclusion</b>	15
<b>Appendix A: Family Members Tell Their Stories</b>	16
<b>Appendix B: GABRIELA Women’s Party (GWP)</b>	17
<b>Appendix C: Political Prisoners in the Philippines</b>	17
<b>Appendix D: The Subic Rape Case &amp; the Impact of U.S. Militarism on Philippine Women</b>	18
<b>Appendix E: The Hacienda Luisita Massacre: The Beginning of a Wave of Killings</b>	18
<b>Appendix F: Threats Against the NDFP Monitoring Committee</b>	18
<b>Notes</b>	20
<b>Resources</b>	22
<b>Biography</b>	23

# Women's Delegation Investigates Escalating Repression in the Philippines

## Introduction

There is a human rights crisis in the Philippines. The Philippine National Police and Armed Forces appear to be involved in more than 750 extrajudicial killings, which have taken place since Gloria Macapagal Arroyo assumed the presidency in 2001. Activists, community leaders, organizers, lawyers, journalists, development workers and human rights workers have been assassinated. The Philippine Government is prosecuting progressive members of Congress on rebellion charges, and threatening legal opposition organizations. In response, four women lawyers—representing the National Lawyers Guild (NLG), the Center for Constitutional Rights (CCR) and the International Association of Democratic Lawyers (IADL)—traveled to the Philippines from May 25 to June 2, 2006 on a fact-finding mission. This mission was organized by GABRIELA Network and co-sponsored by the Vanguard Foundation. In the Philippines, it was hosted by GABRIELA, Philippines and the Gabriela Women's Party.

The delegation's mission was to investigate the extrajudicial killings and the political persecution of women's rights activists, political leaders and members of the opposition movement, and particularly to assess the Government's role in these human rights violations. The delegation met the members of Congress, known as the Batasan 6, who are being charged with rebellion. We met with their lawyers and also attended a court hearing. In addition, we met with other human rights lawyers, with leaders of GABRIELA, the Gabriela Women's Party and other mass organizations and human rights organizations. We conducted interviews with families of victims of extrajudicial killings and those who have been displaced by militarization. We talked with members of the National Democratic Front of the Philippines (NDFP) Human Rights Monitoring Committee, the government Human Rights Commission and the political counsel for the U.S. Ambassador.

## Political Context

President Gloria Macapagal Arroyo, vice president under Joseph Estrada, came into office when the People's Power II demonstrations forced the ouster of Estrada in 2001. Arroyo's tenure was quickly threatened when she was seen to have engaged in militarization and corruption. Filipinos widely believe that she rigged her 2004 re-election.<sup>1</sup> The call for Arroyo's ouster gained mass momentum with the release of a wiretap recording that appeared to capture her directing a top election official to make sure she won by a million votes.

Those in power were surprised when members of progressive popular organizations made a good showing in the 2001 and 2004 elections. For the first time, the left won several seats in Congress as a result of the implementation of a party-list vote. In 2004, six progressives were elected: **Liza Maza** of the Gabriela Women's Party (GWP); **Saturnino Ocampo**, **Joel Virador** and **Teodoro Casiño** of Bayan Muna (People First, the major left coalition); and **Crispin Beltran** and **Rafael Mariano** of Anakpawis (Toiling Masses, representing workers and peasants). These six representatives, known as the Independent Party-List Bloc, along with the popular organizations they represent, led the call for Arroyo's impeachment. In September 2005, two military officers testified against Arroyo in Senate hearings about the allegations of vote rigging. In response, Arroyo issued Executive Order 464, which prohibited cabinet members, police, military and national security officials from attending congressional hearings without the president's permission. During this same period of time, Arroyo began cracking down on street demonstrations through policies of "Calibrated Pre-emptive Response" (CPR), "no permit no rally," and a blanket prohibition on demonstrations in front of the Malacañang, the presidential palace in Manila.

Opposition to the Arroyo administration has come not only from progressives, but also from right wing and military supporters of ousted President Joseph Estrada. On July 27, 2003, a group of 321 armed soldiers who called themselves the "Magdalo" took over the Oakwood Hotel in Makati City in order to bring attention to the Arroyo regime's corruption. They claimed that the president was going to declare martial law and demanded the resignation of top-ranking officials of the Armed Forces of the Philippines as well as of the president herself. The soldiers surrendered after 18 hours, and a number of the participants have subsequently been pardoned.

Arroyo also faces the longest running communist insurgency in Asia. The Communist Party of the Philippines (CPP), founded in 1969, has waged a revolutionary conflict through its armed wing, the New Peoples Army (NPA), for 37 years. The NPA operates throughout the country and has established areas of control. The CPP is a member of the National Democratic Front of the Philippines (NDFP), the political negotiating arm of 17 revolutionary organizations. Peace talks between the Government and the NDFP, facilitated by Norway, resulted in ten negotiated agreements including a precedent-setting Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL). In 2002, the United States and the European Union designated the CPP/ NPA as terrorist organizations.<sup>2</sup> As a result, negotiations were halted.

There is also a history of armed conflict with the separatist Moro Islamist Liberation Front (MILF) and other forces in the southern islands who seek to create an autonomous Philippine Muslim region.

On February 24, 2006, President Arroyo issued Proclamation 1017, declaring a national State of Emergency. On the same day,

Arroyo ordered the police to disperse a rally commemorating the 20th anniversary of the toppling of dictator Ferdinand Marcos by a nonviolent popular uprising (“People Power I”). The government justified the Emergency Proclamation by stating that it had foiled a supposed coup plot by an unlikely left-right conspiracy.

The Proclamation stated that “elements in the political opposition [the legal Party-List organizations] have conspired with authoritarians of the extreme Left represented by the NDFP-CPP-NPA and the extreme Right, represented by military adventurists [the Magdalo] the historical enemies of the democratic Philippine State, who are now in tactical alliance and engaged in a concerted and systematic conspiracy, over a broad front, to bring down the duly constituted Government elected in May 2004.”

The Arroyo administration did not allege that the efforts to “bring down” the government were being conducted militarily or by violent means, but rather the Emergency Proclamation stated that the supposed conspiracy was “obstructing governance including hindering the growth of the economy and sabotaging the people’s confidence in government and their faith in the future of this country.”<sup>3</sup>

Under the Proclamation, the Arroyo administration revoked all permits for demonstrations and allowed for indefinite detention without the right to the writ of habeas corpus.

## What are the Party-Lists?

In 1998, the Philippines instituted an electoral party-list system, with the stated goal of increasing the representation of marginalized and underrepresented sectors in Congress. Two-thirds of the Philippine Congress is controlled by political families or clans. Although there are only a relatively small number of party-list seats, their purpose was to open up the political process and to challenge the moneyed and patronage politics that have long bred governmental corruption and inefficiency. Voters have two votes for their congressional representatives: one for a district representative, and one for a party, coalition or organization from the party list, which is elected at large nationally. Each party that receives 2% of the total party-list vote gets a seat in the House, up to a maximum of three seats. Twenty percent of the 260 seats in the House of Representatives are reserved for party-list representatives, half of whom must be those certified as representing under-represented sectors such as labor, peasants, the urban poor, indigenous peoples, and women.

As of the 2004 election, only 24 of the 52 available party-list seats were filled. The number of party-list votes had doubled from 2001 when few voters understood the system, and progressive organizations expect to double their bloc again in 2007 - if the 2007 election goes forward. Despite their small number,

the Independent Party List Bloc has been successful in defeating, delaying or diluting many of Arroyo’s anti-people legislative measures and has successfully blocked several provisions in Arroyo’s Anti-Terrorism Bill. They have formed alliances with other legislators to gain support for wage increases, tax breaks for low-income workers, bills against political dynasties, price controls on basic goods, inquiries into government corruption issues and other measures opposed by the Arroyo regime. In fact, the six legislators and the organizations they represent have gained disproportionate visibility in public debates in relation to their actual number of congressional seats. Arroyo is now proposing constitutional amendments that would put the 2007 election off to 2010, and alter the parliamentary system, weakening or effectively eliminating its party-list component. (See *Charter Change: A Threat to Philippine Democracy*, below.)



The Batasan 5 - from left to right Rafael Mariano, Liza Maza, Saturnino Ocampo, Joel Virador and Teodoro Casiño (not shown) - demonstrate for a new minimum daily wage. The photo on the banner is of Crispin Beltran who is in custody

## The Role of Liza Maza

Gabriela Women’s Party representative Liza Maza is the sole sectoral representative of women in Congress. Representative Maza is a long time feminist activist who led the largest national alliance of women’s organizations, GABRIELA. She was one of the first three progressive party-list representatives elected to Congress in 2001. Representative Maza is responsible for passing a critical Anti-Trafficking in Persons and Children Act, an Anti-Violence Against Women and Children Act and a Juvenile Justice Act. She is sponsoring a bill to introduce divorce to the Philippines for the first time. She is also involved in other legislation and community projects advancing the specific concerns of women, children, youth, workers and the poor. (See Appendix B

for more information on Gabriela Women's Party.)

The importance of Representative Maza's work must be viewed in the context of the key role of the export of women's labor to the Philippine economy. In 2005, the Philippines sent one million workers to 207 other countries around the world.<sup>4</sup> Of these, the vast majority were women, most sent to do domestic work or to the so-called sex industry. Male and female overseas workers sent back \$12 billion a year to their families in the Philippines – enough to keep the economy afloat. An estimated 65% of this money comes from the women.<sup>5</sup>

The prosecution of Liza Maza for rebellion is of particular concern to the delegation because of her role as the specific representative of women in Congress. At the same time that Rep. Maza is threatened, other women progressive leaders are also being persecuted. GWP Founding Vice Chair Tita Lubi is also among the 51 defendants in the rebellion case. GABRIELA Secretary General Emmi de Jesus, GWP National Chair Luz Ilagan, GABRIELA Southern Mindanao Vice Chair Cora Espinoza, BAYAN Chair Carol Arraullo, and BAYAN International Officer Rita Baua are among those implicated in the supposed rebellion conspiracy.

The Philippine military is perpetrating human rights violations on a broad scale and Philippine women activists are being murdered in unprecedented numbers.

The numbers of disappearances, forced evacuation and displacement, destruction of property, unlawful arrest and detention, sexual abuse, rape and other forms of torture are rapidly increasing.<sup>6</sup> The U.S. military presence has a major impact on women, as exemplified by the current rape charges against four U.S. soldiers who were stationed at the Subic Bay Freeport. (For more information see Appendix D, *The Subic Rape and the Effect of U.S. Militarism on Philippine Women*.) Hence, it is essential that Rep. Maza be able to continue to advocate for women's interests on the legislative level.

## **The Prosecution of the Batasan 6:**

### **The Warrantless Arrest of Representative Ka Bel**

On February 25, 2006, the day following the Emergency Proclamation, police arrested and detained 73-year-old Anakpawis party-list Congressman Crispin Beltran (known as Ka Bel), a long time labor leader, who was among those arrested during martial law in 1982. The government has repeatedly labeled Ka Bel a communist for disagreeing with Arroyo's policies, particularly regarding the rights of workers.

Under the 1987 Philippine Constitution and Rules of Criminal Procedure, similarly to under U.S. law, warrantless arrests can

only be made when the offense is committed in the presence of the police officer.<sup>7</sup> In the case of a warrantless arrest, the suspect can be detained for up to 36 hours and subjected to an inquest in which the prosecutor assesses the evidence and decides if there is enough information to file charges in court. If the suspect is out of custody, the procedure for the prosecutor to determine probable cause is called a preliminary investigation (PI). The prosecution has 45 days to conduct the PI and the defense can present its own evidence, unlike the more summary inquest. The PI is then presented to the court in order to obtain an arrest warrant. Once an accusatory pleading, called "an information," is filed by either method, the accused can request that the court independently determine probable cause. Although the Constitution provides a right to a speedy trial, there is no set time limit for trial even for someone in custody. There is no trial by jury in the Philippines.

The old Anti-Subversion law, outlawing the Philippine Communist Party and other groups, was interpreted by the courts to make the crime of rebellion a "continuing offense." The courts upheld warrantless arrests of party members on the theory that the defendant by his or her membership was at all times participating in an ongoing crime, and thus that the crime "continued" in the presence of the arresting officer.<sup>8</sup> However, the Anti-Subversion law was repealed in 1992, making this continuing offense doctrine of questionable viability.

The police at first asserted that the arrest of Ka Bel was based on a 1985 arrest warrant for a rebellion case that was dismissed when dictator Ferdinand Marcos was ousted in 1986. When it was shown that the warrant was invalid, a complaint was then filed charging Ka Bel with inciting to sedition, for allegedly speaking and inciting the public to overthrow the Arroyo government during the February 24, 2006 rally. Ka Bel maintains that he did not speak at the rally. Moreover, this inciting charge, as a less serious offense, is covered by the congressman's parliamentary immunity.<sup>9</sup>

The police and prosecution proceeded to hold a late night inquest proceeding against Ka Bel and Lt. Lawrence San Juan, over Ka Bel and his attorney's objections. San Juan is an alleged member of the Magdalo who escaped in January 2006. He was re-arrested just prior to Ka Bel's arrest. A Department of Justice panel then found probable cause for Ka Bel and San Juan to be charged with rebellion and filed an information in the regional trial court. The prosecutors accuse Ka Bel of conspiring with Magdalo members to overthrow the Arroyo government. Rebellion is a non-bailable, capital offense and one for which habeas corpus is not available.

On the same day that they arrested Ka Bel, the police attempted to arrest Liza Maza and the other four progressive party-list representatives. The five managed to avoid being seized, and sought and received protective custody from the House of Representatives in the Batasan, the House headquarters. They thus became known as the Batasan 5.

## The Protracted Litigation of the Rebellion Cases<sup>10</sup>

Although the Department of Justice (DOJ) at first agreed to follow the Preliminary Investigation procedure, they proceeded to attempt to conduct inquest proceedings against the five at the Batasan, as if they had already been arrested. The DOJ asserted that the five would be “re-arrested” if they left their offices. The DOJ cited the old continuing offense doctrine as their authority to make warrantless arrests for rebellion. However, when the five remained camped out in their Batasan offices under the protection of House security, the DOJ panel subpoenaed them to a PI hearing, which was scheduled for the afternoon of March 13.

Meanwhile, Ka Bel’s health deteriorated under the stress of his confinement. Doctors recommended that he be hospitalized for severe hypertension and diabetes. On February 27, the prosecutor reversed his earlier decision and recommended the case be dismissed. When Ka Bel’s lawyer, Romeo Capulong, went to the detention center, expecting Ka Bel to be released, he was told that Ka Bel was to undergo another inquest. Guards took Ka Bel from his cell, telling him that he was going to the hospital, but then took him to the prosecutor for a “re-inquest” regarding the supposed coup conspiracy. This inquest proceeding and the continued detention were illegal because they were based on an unlawful warrantless arrest and violated Ka Bel’s constitutional right to due process. On March 2, Ka Bel was moved to a hospital room where he remained in custody under guard.

The prosecutors filed two different rebellion cases in the regional trial court against Ka Bel, one of which included the other five legislators plus 46 other respondents (defendants): other leaders of the legal party-list organizations, along with members of the NDFP negotiating panel and the renegade soldiers. The two cases initially proceeded before different judges but have now been consolidated and are based on the same allegations and evidence.

The substance of the rebellion allegations is that the party-list representatives and other members of progressive party-list organizations plotted a coup to coincide with the February 24th People Power anniversary demonstration. They are alleged to have conspired with Lt. San Juan and other Magdalo soldiers and with Jose Maria Sison, a founder of the CPP who has been in exile in the Netherlands since 1986. Both charging documents allege that the legislators and the other legal progressive leaders are actually leaders of the CPP who mapped out a “three year plan to raise the level of the people’s war” and bring down the Arroyo regime. Allegedly, this will happen by broadening the “legal fronts” – the progressive party-list organizations such as Bayan Muna, Anakpawis and Gabriela Women’s Party – while intensifying the armed struggle.

On March 3, 2006, the President rescinded Proclamation 1017, the State of Emergency. However, the Arroyo administration continued to pursue the rebellion allegations, the illegal deten-

tion of Ka Bel and the threats of warrantless arrest against the Batasan 5 and the other above ground left leaders. The repressive policies against demonstrations remained in place.

On March 13, without notice to the Batasan 5 defense lawyers, the DOJ panel moved the PI hearing from the afternoon to that morning and went ahead in their absence. Key prosecution witness Jaime Fuentes dramatically appeared hooded to submit an affidavit, which the DOJ panel received without even ascertaining Fuentes’s identity.

That same day, Quezon City Trial Court Judge Evangeline Marigomen ordered Ka Bel’s release on the grounds that his warrantless arrest was illegal, without probable cause and violated his parliamentary immunity. The PNP and the DOJ, however, refused to release Ka Bel, on the grounds that another rebellion case was pending in the Makati Regional Trial Court. On April 26, Ka Bel was transferred to a private hospital, the Philippine Heart Center, still under guard.

On May 4, Makati Regional Trial Court Judge Jenny Lind Aldecoa-Delorino granted the Batasan 5’s motion to dismiss the information against them and the other 46 respondents for lack of evidence and various defects. Still pending, was Ka Bel’s motion for a judicial determination of probable cause. Ka Bel remained in custody in his hospital room.

On May 8, after two months of sleeping on office floors, the Batasan 5 walked out of the Congress building and were not arrested. Justice Secretary Raul Gonzalez stated that the dismissal was only a temporary setback in the prosecution of the five, telling the press: “They can run but they can’t hide.”<sup>11</sup>

The prosecution proceeded to file a motion asking Judge Delorino to recuse herself from the case, claiming she had demonstrated partiality toward the accused by granting the motion to dismiss with “undue haste.”<sup>12</sup> Judge Delorino granted the motion after the Justice Secretary threatened to file administrative charges for “gross ignorance of the law” against her with the Supreme Court.<sup>13</sup> She had not ruled on the issue of probable cause for Ka Bel’s continued detention.

Following Judge Delorino’s recusal, the prosecution re-filed the case as an amended information against the Batasan 5 and the 46 other respondents.<sup>14</sup>

Despite the normal time limit of 30 days for decision on motions, defense motions were shunted between various judges, each reluctant to hear the matter.

On May 31, three months after Ka Bel filed his motion for judicial determination of probable cause with Judge Delorino, Judge Encarnacion Jaja G. Moya found probable cause in the first case against Ka Bel and set an arraignment date. The brief order did not discuss the basis for probable cause, or any of the constitutional issues that had been raised by the defense.<sup>15</sup>

The case against the Batasan 5 and the 46 and the case against Ka Bel and San Juan, were consolidated before Judge Moya, but after finding probable cause against Ka Bel, Judge Moya recused herself, citing a personal relationship.

Finally, on June 14, in response to the Batasan 5's and other left leaders' petition for certiorari and prohibition, the Philippine Supreme Court ordered the DOJ to suspend the proceedings on the second rebellion case until the Supreme Court ruled on the legality of the first rebellion case, the case that was dismissed by Judge Delorino. This "status quo order" directed the DOJ to suspend the preliminary investigation of the Batasan 6 and the other respondents. However, the Senior State Prosecutor Velasco took the position that the order was moot and insisted that the case proceed. On August 22, 2006, trial court Judge Elmo Alameda, the *fourth* judge to take over the cases in five months, temporarily suspended the proceedings on the second rebellion case. As of the date this report went to press, the Supreme Court was still considering whether to nullify the PI, which would have the effect of dismissing the case. Ka Bel is still detained at the Philippine Heart Center.

## The "Evidence" Against the Batasan 6

The delegation was able to examine the 392 documents that the prosecution submitted as evidence in the PI. A number of affidavits attribute various armed acts to the NPA and connect the NPA with the CPP and Jose Maria Sison. None of them, however, connect the accused legislators and party-list organization leaders to any armed acts. These documents show nothing except that there has been a long-term armed conflict between the government and the NPA. Based on the questionable "continuing offense doctrine," the information recounts various well known armed actions attributed to the CPP- NPA- NDF going back as far as 1968, when some of the Batasan 5 and other respondents were toddlers.

Many of the documents are apparently intended to support the prosecution's claim that the legal organizations such as GABRIELA, GWP, Bayan Muna and Anakpawis are "front organizations" for the CPP-NPA-NDFP. There are some unsupported affidavits by former NPA members (i.e., NPA members who have been captured and become informants), as well as a large amount of public propaganda materials by the organizations themselves, by the NDFP and by the military. None of the documents even purport to show any official policy or act by the party-list organizations in support of the armed revolutionaries.

The only direct evidence proffered to show that the six legislators were involved in a coup conspiracy consists of two highly unbelievable affidavits. One, by a man named Ruel Escala, claimed that on February 20 around 3 p.m., he went from his home in Tondo, Manila to Barangay Bucal, Padre Garcia, in the Batangas province, some three hours from Metro Manila. He was looking

for the house of a friend he could identify only by first name, who owed him money. While defecating in the bushes near a farm, he said he saw some people get out of a van and immediately recognized Congresspersons Ocampo, Casiño, Beltran, Mariano, Virador and Maza because he had previously seen them in the news.

According to Escala's affidavit, the six legislators went into a house bearing documents, where they met with a number of unknown men. Escala said he could not hear what the legislators and the others were talking about, but decided to travel to the Criminal Investigation and Detection Group (CIDG) in Camp Crame, in Quezon City, where at 9:30 p.m. that night he reported what he termed the "uncommon incident." There, he was shown a "Wanted" poster of Lt. San Juan, and supposedly identified San Juan as one of the men the legislators met at the farm. It was not explained why, prior to seeing the "Wanted" poster, Mr. Escala thought this incident was so uncommon as to merit the trip to Quezon City prior to returning to his home in Tondo.

The Journal of the House of Representatives, as well as House security camera footage, shows that all six legislators were in Congress for its February 20 session, which began at 4 p.m.—impossible if the six were in Batangas at 3 p.m. The legislators have submitted counter-affidavits accompanied by evidence detailing their activities throughout the day. For example, Liza Maza and Teodoro Casiño were in a meeting from 9:30 a.m. to 1:30 p.m. that day with an attorney in Quezon City to discuss complaints filed by the faculty of Philippine State College Aeronautics against its president. At 2:15, Rep. Maza had a meeting with the Regional Director of Public Works and Highways for Cordillera Autonomous Region at the House of Representatives to discuss a building project Maza was involved in. Maza and the other representatives attended the House Committee on Appropriations and the House of Representatives session, which went from 4 to 7 p.m.

Jaime Fuentes's affidavit details the supposed coup plan. Fuentes, the witness who originally appeared hooded at the PI, professed to be a member of the CPP-NPA. Fuentes claimed to have been a longtime security person for one of the respondents, Vicente Ladlad, a leader of Bayan Muna, who Fuentes alleged to also be a top leader of the CPP. Fuentes claimed to have overheard meetings between Ladlad and some of the accused legislators in which the plan for a February 24, 2006, coup was discussed. Mr. Fuentes's affidavit is refuted in detail in the legislators' counter-affidavits, as well as in a press statement by Vicente Ladlad.

The only other direct allegation against any of the legislators is an affidavit by Raul Cachuela. Mr. Cachuela claims that in 1992, four of the legislators attended the CPP's 10th anniversary plenum, where they were elected to the CPP Central Committee. The affidavit is rife with contradictions and impossibilities that are amply refuted in the legislators' counter-affidavits.

The information also accuses the legislators of diverting government funds to the rebel movement, but how any funds were diverted, when, where and by whom, is never mentioned either in the charging document or in any of the evidence introduced in the PI.

The allegations about the “three year plan” are based on lawful political expression, such as the legislators’ call for Arroyo to step down following the vote rigging scandal. The DOJ quotes public rhetorical statements by the CPP and Professor Jose Maria Sison, the chief political consultant for the NDFP negotiating team in peace talks with the Philippine government. For example, Sison has published statements predicting that outrage at President Arroyo’s cheating in the election, along with the rampant corruption and other abuses of her administration are likely to broaden public opposition to her regime and ultimately lead to its overthrow.

## The Significance of the Batasan 6 Prosecution

The evidence against the Batasan 6 would be laughable, but for the dangerous precedents the case sets:

- It spans 37 years to include acts against each regime from the Marcos dictatorship to the present, making rebellion a perpetual, open-ended crime by a conspiracy encompassing anyone who opposes government policies.
- It uses mere association as a basis for criminal prosecution, in this case membership in any progressive organization, despite the repeal of the Anti-Subversion Law in 1995.
- It criminalizes free expression, assembly and association, despite the strong protections for those rights in the 1987 Constitution, on the basis that any dissenting activity furthers the armed rebels’ cause.

From the delegation’s discussion of the rebellion cases with the defense lawyers, it is clear that even given the limited independence of the Philippine judiciary, the evidence is so weak that the Department of Justice must realize that the prosecution will ultimately fail. The defense attorneys believe the Arroyo government must be pursuing this case for other reasons: to exhaust the legal left’s resources defending its leaders while the cases slowly wend their way through the inefficient court system; to generate adverse publicity hampering the legislators’ efforts to oppose her policies in Congress and to pass progressive legislation; to reduce the legal left’s chances in the 2007 elections, and to generally diminish its capability to engage the Arroyo regime in the political mainstream.

The Batasan 6 prosecution undermines the democratic process in the Philippines. These legislators were specifically elected to represent marginalized sectors of society such as women and workers in a Congress that is dominated by the elite. Moreover, the conflation of the above ground progressive organizations with the armed revolutionary movement in the rebellion legal case is

just one facet of the Arroyo government’s ongoing propaganda campaign against lawful dissent. Her officials repeatedly tag progressive parties and organizations as “CPP fronts” and have used this as a pretext for violations of human rights and civil liberties. By demonizing and discrediting the legal mass movement, Arroyo is creating a favorable climate for continued persecution of its leaders, even as extrajudicial killings of progressive activists continue nationwide. Key leaders of progressive people’s, women’s, labor and peasant organizations are implicated in the rebellion case, putting all in fear of death squad attack, as will be further discussed below.

In short, the rebellion charges against the progressive legislators and party leaders based in Metro Manila, the capital, are part of what the mainstream Philippine Daily Inquirer called in a March 22, 2006, editorial, “clearly a systematic policy of extermination” of the legal opposition that “can only suggest to dissidents that they are sitting ducks if they persist in staying aboveground and continue to engage in legal political activities.”<sup>16</sup>

## Oplan Bantay Laya

The Arroyo administration’s disregard for civil liberties and crack down on leaders of progressive organizations did not begin with Proclamation 1017. In January 2002, Arroyo initiated Oplan Bantay Laya (Operation Plan Freedom Watch, hereafter, OBL), a five-year plan setting forth the counter-insurgency priorities and strategies to be employed by the Armed Forces of the Philippines, as the Philippines’ part in the U.S. initiated “global war on terror.” Notably, the plan was intended to provide a “holistic approach combining the political, security, socio-economic-psychosocial elements”—*making no distinction between armed combatants and civilians*.<sup>17</sup>

OBL sets forth the priorities for Philippine counter-intelligence, including the targeting of so-called “politico-military organizations” supposedly associated with the communist movement. Intelligence documents later leaked to the media stated that “the operational goals [of the Armed Forces of the Philippines] are anchored not only on the traditional threat power factor of guerilla fronts, affected barangays, personalities and firearms, but shall include economic, political and social factors.”<sup>18</sup>

While the plan began in 2002 with targeting “terrorist” groups and the armed secessionist movement on Mindanao Island, in 2003, the OBL program was shifted to the threat posed by the NPA. Seven regions seen as NPA strongholds were identified by the military as priority targets in the implementation of the OBL.

In 2004, the Arroyo government received \$4.6 billion for military and economic assistance and \$30 million for counterinsurgency exercises from the U.S. government. Philippine human rights organizations believe that the U.S. military aid is being used to

finance covert operations to eliminate all critics of the Arroyo regime – regardless of whether they are armed combatants, activists, or community leaders.

On September 3, 2004, the Armed Forces of the Philippines distributed a directive to security and intelligence agencies “to adopt a distinct system of target research, focusing mainly on all sectoral organizations...that are known to be actual front of the [Communist Terrorist Movement] and other groups with similar inclinations” (emphasis supplied).<sup>19</sup> Apparently recognizing the overbreadth of this instruction, the directive goes on to warn that “[e]xtreme caution, however, should be observed, as the objects and subjects of this undertaking are mostly legal organizations duly recognized not only by the local community or public at large, but also by the National Government itself.” Additional documents distributed with the directive clarify that the targeted “legal organizations” are not limited to those with established ties to the CPP, but also to sectoral groups including women, professionals, cultural minorities, transportation workers, the urban poor, peasants, students and youth, and laborers.

## Land Redistribution Struggles Lead to Increasing Repression

On November 16, 2004, twelve sugar workers and two children were killed and hundreds badly injured when President Arroyo’s Labor Secretary ordered police and military to disperse striking workers and their families at the Hacienda Luisita sugar mill and plantation in Tarlac, Central Luzon. The Hacienda Luisita massacre placed President Arroyo and the AFP and PNP in a defensive posture. (See Appendix E, *The Hacienda Luisita Massacre: The Beginning of a Wave of Killings*, below.) In January 2005, the government declared that the strike of the plantation and sugar mill workers had become “a matter of national security” through an AFP published book entitled *Trinity of War: The Grand Design of the CPP/NPA/NDF*, which AFP brass also turned into a power point presentation, *Knowing the Enemy*, and made available to the public.<sup>20</sup> The book and presentation deal with how the government intends to destroy the CPP and the NPA based primarily on their study of the events in Hacienda Luisita. They name the progressive party-list organizations such as Bayan Muna as CPP/ NPA “communist terrorists,” “legal sectoral front organizations” and “enemies of the state.” Many other legal groups, even church and media organizations, are also so labeled in a comprehensive list, complete with tables and flow charts, which includes names of top leaders of these groups.

The accusations drew widespread indignation from the public, and the Secretary of Defense eventually pulled the presentation. But the circulation of the materials in the military and police hierarchy, as well as to the general public, signaled the start of the intensified killing of civilian members of party-list and other above-ground organizations in Central Luzon and the other OBL target areas. At noon on March 3, 2005, a sniper shot and

killed Abelardo Ladera, 45, a Tarlac City councilor. Ladera was a Bayan Muna leader in Central Luzon from a barangay inside Hacienda Luisita and a supporter of the Hacienda Luisita strikers. Ladera was third on the list of seven individuals described in the book and the presentation as instigators of the Luisita strike and therefore “enemies of the state.” A long string of killings followed.

On June 17, 2006, President Arroyo announced that she was pouring an extra P1 billion (\$20 million) into the military effort against the communist insurgency. She wants to eliminate the 37-year-old insurgency in “critical areas” within two years. Generals welcomed the promise of more funds, immediately increasing troops in NPA stronghold areas and confirming, “We’re going all-out now,” even as Batasan 6 Congressman Mariano criticized Arroyo as shutting the door to the peaceful resolution of the armed conflict.<sup>21</sup>

## The Extrajudicial Killings

During the one-week our delegation spent in Manila, two more activists were killed (making it an almost daily occurrence). On May 27, 2006, Noel “Noli” Capulong was killed by motorcycle riding men on his way home. Capulong was Bayan Muna’s deputy regional deputy coordinator for environmental action in Southern Tagalog, and the 95th member of Bayan Muna to be killed since 2001.<sup>22</sup> On May 29th, we attended a court hearing in which Batasan 6 lead defense counsel Romeo Capulong (not related to Noel Capulong) told the judge that one of the 51 accused, Philip Manpoco, had been missing since early May, and that the list of accused amounted to a death list. Even as we sat in court, word came in that another of the 51, Sotero “Ka Teroy” Llamas, had just been killed.

KARAPATAN, the Philippine human rights alliance, has documented 750 civilian victims of extrajudicial execution from 2001 to the date of this report. 305 of these victims were leaders or activists with progressive organizations, including trade union leaders, human rights activists, church workers, indigenous leaders and local government officials. Journalists, human rights lawyers and progressive judges have also been killed.

The majority of the other victims are civilians who lived in areas deemed strongholds of either the NPA and/or Muslim revolutionary groups; the Moro National Liberation Front (MNLF) and the Moro Islamic Liberation Front (MILF). 80 of the victims were women, 38 of them members of GABRIELA or Gabriela Women’s Party. 55 were children. In addition, there have been 150 disappearances. The murders and disappearances have taken place throughout the Philippine archipelago, with the exception of the Metro Manila capital region.

Bayan Muna, the progressive party-list organization with the strongest electoral showing, has seen the most deaths. Bayan

Muna Deputy Secretary General Robert de Castro has said that the group's local leaders "are dropping dead like flies."<sup>23</sup>

Activists with the Movement for National Democracy (KPD), a left-leaning umbrella grouping of trade unions, farmers' and fishermen's organizations, and women's and youth groups, have also been targeted for assassination. KPD regional coordinator Cathy Alcantara was gunned down on December 5, 2005, outside the resort where she was attending a conference on farmers' rights. Two months later, the body of her friend, 19-year-old Audie Lucero, a youth organizer with KPD, was found in a remote rice field, his body showing marks of torture. Lucero was last seen surrounded by police officers and soldiers in a hospital lobby where he had been visiting a friend, inexplicably crying. A



third friend and leader of a women's group within KPD, Annaliza Abanador-Gandia, was found riddled with bullets on May 18, 2006. Prior to these activists' deaths, local police and military officials had told KPD members, "We already know who you are. We know who's really behind you. We know all of you."<sup>24</sup>

UNORKA (National Coordination of Autonomous Local Rural People's Organizations), a farmers' group that has been pushing for Arroyo's ouster, has seen thirteen of its leaders killed. Task Force Mapalad (TFM), a peasants' group that has been pushing for land reform in Visayas and Mindanao, has seen at least eight of its farmer-leaders killed.<sup>25</sup>

## Attacks on the Legal Profession

Lawyers and judges are among those at risk of assassination. Since President Arroyo came to power in 2001, at least fifteen lawyers and ten judges have been killed. The victims are all human rights lawyers or judges involved in human rights work and/or cases where government interests are at stake. For example, Judge Henrick Gingoyon, assassinated on December

31, 2005, ordered the Philippine government to pay 62 million Pesos (\$1,240,000) to the Philippine International Air Terminals Co (PIATco), and previously represented BAYAN MUNA and KMU (a labor organization) as an attorney. A recent report by the Dutch Lawyers for Lawyers Foundation details the circumstances of the killings and the consequential threat to the independence of the Philippine judiciary.<sup>26</sup>

The attacks on members of the legal profession have only escalated since the departure of the American and Dutch legal delegations. On June 21, 2006, Attorney Evelyn Guballa was killed by motorcycle riding men, becoming the legal profession's fourth fatality this year. Attorney Concepcion Jayme-Brizuela, member of the Executive Committee and Treasurer of Union of People's Lawyers in Mindanao (UPLM), has received text messages on her cell phone stating she is next in line to be killed. Attorney Beverly Musni, labor arbiter of the National Labor Relations Commission (NLRC) of the Department of Labor and Employment (DOLE) and Secretariat head of UPLM, is on the military's "Order of Battle (OB)," a list of those to be killed. On June 27, 2006, she was followed by men aboard a motorcycle while on her way home with her daughter.

Renowned 71-year-old human rights lawyer, Romeo Capulong, lead attorney for the Batasan 6, has himself survived repeated attempts on his life, most recently on June 25, 2006. It is thought the latest assassination attempts relate to Capulong's role in representing victims of the Hacienda Luisita massacre. Attorney Jobert Pahilga, who represents Anakpawis party-list Representative Rafael Mariano (one of the Batasan 6), has also received death threats.<sup>27</sup>

## Attacks on Journalists

Journalists have also been under attack. Six journalists were killed this year alone. 43 have been killed since 2001, more than those killed under the 14-year Marcos dictatorship. According to the International Federation of Journalists, the Philippines is the second most dangerous country for journalists after Iraq.<sup>28</sup>

## Targeting Activists

Killings of other government critics have similarly continued to escalate. For example on July 31, 2006, three people were shot and killed in three different provinces: a political activist Cordillera People's Alliance coordinator, Alice Omengan-Claver; a student, League of Filipino Students provincial spokesman Rei Mon Guran; and a photojournalist, Prudencio Melendres.<sup>29</sup>

## The Military is Behind the Killings

The government maintains that the killings are the result of strife

within the CPP/ NPA. However, KARAPATAN has documented a pattern connecting the government to these killings. Prior to each assassination, the military or police attempt to vilify the victims by labeling them members of the NPA and enemies of the state. The names of many of the people killed have appeared in various military “hit lists” or “orders of battle” before they were murdered. These lists are supposedly drawn from intelligence reports.

For example, several months before he was murdered, Luisita union leader Tirso Cruz, an elected council member in his barangay (neighborhood), was tagged by the Northern Luzon Command as the “secretary of the revolutionary committee” in the village. Special Operations Teams are deployed to the area where the victims live or military detachments are set up in their community. The victims are openly surveilled and visited by known military personnel. Following the assassination or the disappearance, the soldiers leave or refuse to help. The perpetrators are often motorcycle assassins wearing ski masks and have been seen heading toward military camps after the attacks. Some have been uniformed soldiers or police. Survivors and families have identified assailants as local military or paramilitary personnel. Local police have refused to help in many of the investigations. The killings take place openly, in broad daylight and in populated areas close to military outposts where the NPA would not be able to operate, and appear to be the work of trained professionals. All of the witnesses that KARAPATAN is working with have identified military – not CPP/ NPA—suspects. While the military has named certain “rebel groups” as suspects in some of the killings, human rights groups and the NPA have identified these as former rebel factions who have joined forces with the AFP, becoming paramilitary guns for hire.<sup>30</sup>

Notorious Major-General Jovito Palparan has gone on record to say that the extrajudicial killings are “helping” the armed forces of the Philippines get rid of those who instigate people to fight against the government. To him, the deaths of activists are just “small sacrifices” in the military’s anti-insurgency campaign. “We’ve got to hate the movement,” Palparan said in an April 2006, interview. “We’ve got to have that fighting stand.”<sup>31</sup> Palparan has been repeatedly promoted and was recently bestowed the Distinguished Service Star medal for his “eminently meritorious and valuable service”. Now, scheduled to retire from the Philippine military on September 11th, Palparan will be named deputy for anti-insurgency operations at the National Security Council.<sup>32</sup> As he put it: “I will retire, yes, but I will not retire from my counter insurgency work. I will just be removing my military uniform.”<sup>33</sup>

It is the military that has had the motive, means and opportunity to carry out these assassinations, and the Arroyo government has demonstrated its complicity by failing to take any serious action to investigate and stop the killings. More than five years passed, with more than 500 dead, before the government formed a task force to look into the problem. Despite this task force, nearly all the killings remain unsolved. No one has been held responsible or brought to trial.

## The Response of the Philippine and U.S. Governments

University of the Philippines Professor Miriam Coronel Ferrer recently explained that the Department of Justice can do nothing to stop the killings because “the geographic and organizational spread of the victims reflect that a ‘national policy’ is in place. “This is the Armed Forces of the Philippines, the Philippine National Police, the National Security Council led by the national security adviser, the Department of Interior and Local Governments and the Department of National Defense at work,” she said. “Just as in the killings of journalists, whether or not a government institution or officer is involved, the onus of protecting the rights of its citizens falls squarely on the government. The sheer number of killings of selected targets and the modus operandi point strongly in the direction of a government ‘national security’ policy—strictly confidential perhaps, limited to a few circles, perhaps, but ultimately sanctioned by the leadership through sheer inaction or inability, or worse, actual complicity.” In the early years of the Arroyo presidency, alarm was raised within the administration over the good showing of party-list groups in the 2004 elections. “Coincidentally, or shall we say consequently, political killings targeting the Left began in late 2004.”<sup>34</sup>

Conflation of the left leaning party-list organizations that are participating in the electoral process with the armed rebels is not only openly espoused by the military, but by civilian government leaders as well. For example National Security Adviser Norberto Gonzales has said, “What we are fighting today is no longer the classic guerrilla warfare. They have infiltrated and entered our democratic process.” He maintains that the elected parliamentarians are taking advantage of their office to advance the revolution.<sup>35</sup>

On May 22, 2006, the Commission on Human Rights (CHR) strongly condemned the killings.<sup>36</sup> CHR Chair Purificacion Quisumbing told the Philippine Daily Inquirer that the government is responsible for ensuring the right to life.<sup>37</sup> Quisumbing said there was a pattern of complaints that implicated members of the AFP and PNP and that “there is an emerging pattern of gross violation of human rights and a failure of the justice system.” Although Quisumbing did not directly condemn the government, she did say: “one wonders why these killings are not being acted upon.”

In our meeting with CHR, Quisumbing reiterated this. Quisumbing could only recommend that people be empowered so that they would be less intimidated to report human rights violations. She thus placed the responsibility on the people to assert their human rights. Unfortunately, she did not draw the logical connection between the activists who are being targeted for assassination, and their role in empowering the people and asserting their human rights.

U.S. Ambassador Kristie Kenney has expressed concern over the extra-judicial killings of journalists and activists. However, she maintains that it is not her business to investigate reports that government officials are responsible.<sup>38</sup>

The delegation met with Kenney's chief political counsel, Scott Bellard, at the Embassy, the fourth largest U.S. embassy in the world. Mr. Bellard acknowledged the gravity of the situation, but merely repeated the Arroyo administration's line blaming the killings on personal and business disputes and internal strife within the NPA. He repeated the now common line, "life is cheap here." When asked what the US would do to stop the killings he replied that the United States could not interfere in the Philippines' sovereign affairs.

## Charter Change: A Threat to Philippine Democracy

President Arroyo has proposed amending the Philippine Constitution, or Charter Change (popularly referred to as the Cha Cha). This would be the fifth constitutional change in less than one hundred years. The change would include a return to a unicameral parliamentary, rather than a presidential system with a bicameral legislature. Arroyo asserts that this would eliminate the need for another "people's power" type of overhaul because it would allow for the government to fall if it did not have sufficient popular support. Arroyo's proposal would eliminate or weaken the party-list system. It would also remove the constitutional provision, which bans foreign troops from the Philippines and precludes the establishment of U.S. military bases on Philippine soil. A transition period in which Macapagal-Arroyo would be both president and prime minister would allow her to stay in power past her term limit of 2010.

The current Constitution was created at a time of unprecedented political unity in the Philippines, following the ouster of dictator Marcos. The body that created this 1987 Freedom Constitution was unprecedented as well in including representatives from traditionally unrepresented sectors. Hence, the Constitution included provisions for some access to government by the disenfranchised and marginalized, a concession to the need to broaden the base for democracy in Philippine politics.

The document draws heavily from the American Constitution. It establishes a government made up of three departments – the Executive, Legislature and the Judiciary – and provides a system of checks and balances familiar to U.S. jurists. In addition to the core principles of American Constitutional democracy, the 1987 Freedom Constitution contains provisions aimed at uniquely Filipino concerns. Given the country's colonial past and years of foreign intrusion into internal affairs, freedom from foreign occupation and influence over the Philippines was of paramount concern to the framers. The rights to self-deter-

mination and national sovereignty are enshrined in several Constitutional provisions.<sup>39</sup>

Although the 1987 Constitution is by no means a perfect document, it does guarantee the civil, political, and human rights of its citizens, and provides a framework for a representative democracy ensuring universal suffrage. Nevertheless, there have been several attempts to revise the current Constitution in favor of a parliamentary system.<sup>40</sup> While previous attempts at constitution reform (or "charter change") during the Ramos and Estrada terms failed, the Arroyo government appears undeterred by widespread opposition to proposed amendments to the constitution. While there are valid arguments for favoring a parliamentary system over a presidential system, the proposed amendments, as well as the methods employed by their proponents, pose a great threat to a stable Philippine democracy.

## Why Does Arroyo Want to Change the Constitution?

Recently proposed amendments promulgated by the House of Representatives Constitutional Amendment Committee (the "House Proposal") would cancel the elections scheduled for 2007, and extend the terms of all elective officials until 2010.<sup>41</sup> President Arroyo's term would be extended longer than permitted under the 1987 Constitution, while simultaneously expanding her powers. Moreover, Congressmen and other elected officials would also outstay their elected terms and would be eligible for re-election – a direct repeal of the 1987 Constitution's strict term limit provisions. In many cases this would extend the terms of representatives currently in office by an additional three years. With no explanation, the House Proposal also raises the mandatory retirement age of Supreme Court justices – the final arbiters of the legality of any charter change—from 70 to 75 years.

The 1987 Constitution bans "foreign military bases, troops, or facilities" in the Philippines, except when duly ratified by Congress or a national referendum. Art. XVIII, Sec. 25. In addition, the House Proposal eliminates the prohibition on private armies, paramilitary forces and other armed groups – eliminating the Executive's responsibility to dismantle such groups as originally required by Art. XVII, Sec. 25 of the 1987 Constitution. The House Proposal would delete numerous vital provisions of the 1987 Constitution that curtail the President's power to declare martial law.<sup>42</sup> Under the 1987 Constitution, the President could suspend the writ of habeas corpus or place the Philippines under martial law only in cases of "rebellion and invasion, when public safety requires it." The House Proposal extends this to cases of perceived "imminent danger" – which could pave the way for President Arroyo to legalize persecution already underway against those she considers a political threat. The House Proposal also eliminates the need for Congressional authorization for suspension of the writ of habeas corpus and the declara-

tion of martial law, as well as any Supreme Court review of such suspension or declaration. It also deletes the provision limiting martial law and suspension of the writ to a period of sixty days. In essence, the House Proposal permits the President, at her sole discretion, to establish a permanent state of martial law in the Philippines.

Granting any executive broad and unchecked power to set aside the normal legislative process invites authoritarian rule and abuses of power. In the case of President Arroyo, the danger is not merely theoretical. Despite the fact that the 1987 Constitution was carefully drafted to ensure that the President could not set aside the rule of law, President Arroyo recently attempted to do just that with Presidential Proclamation 1017 declaring a National State of Emergency.

The infirmity of Proclamation 1017 can hardly be overstated. The 1987 Constitution does not permit the President to unilaterally declare a “state of emergency,” nor does it grant the President the authority to grant herself additional powers without congressional concurrence. Furthermore, under the 1987 Constitution, there must be lawless violence, rebellion or invasion before the President may exercise special commander-in-chief powers to call out the armed forces. Instead, President Arroyo has used this provision to target non-combatants and activists critical of her regime.

## The Role of the United States

The Philippines, a U.S. colony from 1898 to 1946, is vital to U.S. economic and strategic interests. The large U.S. bases at Subic and Angeles played a key role in the Vietnam War. From 1972 to 1986, the United States supported the Marcos regime with massive economic and military aid.

In 1991, in response to widespread popular opposition to the U.S. bases, the Philippine government banned all permanent foreign bases from its soil. But in 1998, the United States and the Philippines signed the Visiting Forces Agreement (VFA), which allowed the U.S. to establish 22 “semi-permanent” bases in the archipelago. Since that time the U.S. and Philippine military have carried out joint bi-annual exercises.<sup>43</sup>

After the September 11, 2001 attacks, President Arroyo was the first President to pledge support to President George W. Bush. In January 2002, Presidents Bush and Arroyo jointly declared the Philippines the “second front” in the U.S. War on Terror. The U.S. immediately deployed American troops as “advisors” in Mindanao.

Along with this came a 2000 percent increase in military aid. As President Arroyo put it in March, 2004:

When I first became President in 2001, I inherited a com-

mitment of military assistance from the U.S. of \$1.9 million only... Today, that American assistance to our military support is now \$400 million and still counting.

The U.S. delivered \$67.6 million in military equipment to the Philippines between 2001 and 2003, the last year for which full data is available.

Between 2001 and 2005, the Philippines received \$145.8 million in Foreign Military Financing and another \$11.5 million in military training aid, for a total of more than \$157.3 million. Manila is slated to receive \$20 million in FMF and another \$2.9 million in International Military Education and Training (IMET) for 2006.<sup>44</sup> The Philippines is now the fourth largest recipient of U.S. military assistance.<sup>45</sup>

Since designating the CPP/ NPA as a “foreign terrorist organization” in 2002, the United States has deepened its longstanding involvement in the Philippine counter-insurgency campaign. The U.S. and the AFP jointly designed the Philippine Defense Reform Program (PDRP), a comprehensive plan to modernize and upgrade the capacity of the armed forces to conduct “internal security operations” and defeat the insurgency, and the U.S. is providing half the PDRP’s \$370 million budget.

In March 2006, the U.S. and Philippine government established the Security Engagement Board to fight internal terrorism more effectively.<sup>46</sup>

The Philippines is a key strategic location for the U.S. to watch over its interests in Asia, whether they be in Indonesia, Malaysia or China. In addition, massive amounts of oil and natural gas have been found on the southern Philippine island of Mindanao. The mining of natural resources such as bauxite and nickel is also a huge industry throughout the Philippine archipelago. Popular resistance to mining U.S. and multinational corporations has been a continuing source of conflict with each successive Philippine government.

The United States has an abiding interest in quelling any unrest, which threatens its partnership with the Arroyo regime. Despite its many denials, the U.S. cannot escape responsibility for the attacks now taking place against human rights and democracy in the Philippines.

## Conclusion

Based on the findings of the delegation, the National Lawyers Guild, the Center for Constitutional Rights and the International Association of Democratic Lawyers are calling upon international human rights organizations, including the United Nations Commission on Human Rights, to continue to monitor and publicize the escalating repression in the Philippines. The delegation applauds the work of Amnesty International,

Lawyers for Lawyers, and other human rights organizations who have recently conducted similar investigations and begun to campaign for human rights and democracy in the Philippines.<sup>47</sup> Immediate strong action is needed to end the continued killings of innocents and the persecution of popularly elected leaders. The groundless cases against the Batasan 6 and other members of legal oppositions must be dropped and Crispin Beltran should be released immediately.

While still in the Philippines, the joint NLG /CCR/IADL delegation called upon the government to take responsibility for the killings, to protect the targeted populations, and to see that the perpetrators are brought to justice. Although the Philippine government has recently made statements that it intends to investigate the killings, the veracity of these statements remains to be seen.<sup>48</sup>

The United States, the United Nations and other international bodies should call on the Philippine government to convene, empower and support an independent body to investigate the killings, threats and harassment, including the military and national police role. Implicated military leaders should be suspended while their role is being investigated. Those found responsible should be prosecuted fully.

The NLG, CCR and the IADL call on the U.S. Congress to investigate the use of U.S. funding for Philippine military operations against the legal left that are being conducted under the guise of the War on Terror. The United States must condemn the killings of political activists and baseless prosecutions of elected legislators and acknowledge the overwhelming evidence that the killings are being carried out by the Philippine military and paramilitary death squads under Philippine Government policy. The United States must stop providing military support to the Arroyo administration that may be used to crush legitimate political opposition.

## Appendix A:

### Family Members Tell Their Stories

The delegation interviewed the families of victims and listened to their stories. Several examples are recounted below.

**Eden Marcellana**, the Secretary-General of KARAPATAN, Southern-Tagalog region, was abducted on April 22, 2003, along with companions, on her way to a fact-finding mission. Her body was found a day after in Naujan, Mindoro Oriental. Signs of torture were apparent. Her husband Orly, now the lone parent of two young daughters, spoke of the death of his wife. He has tried to pursue many avenues to obtain justice. The DOJ dismissed his case, even after he gave them significant evidence, including the names and identification of the perpetrators. It is clear that Eden was killed by members of the 204th Brigade

under the command of Major General Jovito Palparan.

Orly now receives threats himself and is part of the list of the order of battle, the official military list naming those who must be “neutralized”. Members of the military are asking about Orly and looking for him, calling him a communist and terrorist just as they did his wife before she was killed. The military had accused her of being a high official of the NDF.

**Josie Javier** talked of her husband’s death. **Armando Javier** was killed in their living room. Seconds before, they had been watching television as their son slept in his room. Josie was also injured, but her husband protected her from death by putting himself between her and the spray of bullets coming through the wall. Before his death he was stalked by the military and Josie knows the names of those that stalked him. Although a former combatant, Armando had not been with the NPA since 1994. The military knew that, but once you are perceived to be in the NPA, in the eyes of the military you can never leave.

**Evangeline Hernandez**, mother of a twenty-two year old human rights activist, told her daughter’s story. **Benjaline Hernandez** was also a human rights worker with KARAPATAN. On April 22, 2002, she was killed along with four other human rights activists while investigating the military’s torture of villagers. There was only one survivor. Beng, as she was known, got involved with the College Editors Guild of the Philippines, an activist campus-writer’s group, as an 18-year-old student. She dropped out of school to do human rights work full-time, explaining to her mother that she wanted “to serve the people.” The perpetrators of Beng’s murder claimed that the slain activists were with the NPA. Evangeline is still pursuing justice for her daughter through the CHR and the courts.

**Jennifer Barbas** lost her husband and her eldest son, who was only ten years old. Her nine-year-old son was injured but survived. The military entered their home at three a.m. while they slept and shot them. When she went to the hospital with her family, the military followed them. The military even paid her boy’s hospital bill. Later, Jennifer was told that there were soldiers looking for her. She asked that the media accompany her to the hospital to get the death certificates, so that she could file a complaint regarding the deaths with the CHR. The CHR said that she had no evidence. However, they granted her financial assistance, but explained the low amount with the fact that so many have died.

We also spoke with a young man whose family has been terrorized by the military and who asked to remain anonymous. The military claimed that two of his brothers were members of the NPA. They started by coming to his home every day and accusing them of being NPA. This escalated to death threats. Their neighbors were told that their house would be bombed. The family was forced to leave the area. A fire was started at the young man’s grandmother’s house, and then two days later, their entire housing area was burned down. There were four related

families living there. The military told the neighbors not to come out of their houses or they would be targeted as well. The man's uncle and cousin were also harassed and eventually killed. The CHR told this young man that he did not have a case, because nobody wanted to be a witness for fear of his or her life. A cousin who said he would be a witness was beaten by the military in his home. Now this victim's family cannot live together, as the military has threatened to kill them one by one.

Listening to these people speak was a difficult process. It brought home to us that the killings do not only affect activists. The victims are also wives, mothers, daughters, brothers, sons, and fathers and community members. Their deaths change the lives of their families and communities forever.

## Appendix B:

### GABRIELA Women's Party (GWP)



Gabriela Women's Party is an electoral party that was formed in 2004 by GABRIELA, the national women's alliance. GWP is dedicated to promoting the rights and welfare of marginalized and under-represented Filipina women through participation in the country's electoral system and organs of governance. It is a party composed of women having varied occupations, education, interests, ethnic origins, religious affiliations and sexual orientations.

GWP seeks:

1. To initiate, support and propose measures that would uplift the conditions of marginalized women in the economic, political, social and cultural fields.

2. To educate and organize marginalized women from various sectors towards actualizing women's potential for leadership and action.

3. To tap the organized strength of marginalized women for action towards safeguarding national sovereignty and democracy as well as the people's welfare and well being.

4. To work for a true land reform program that recognizes poor women's right to ownership of the land they till, ensure state provision for health, maternal and child care services for rural women as well as support for their technical skills, training and education.

5. To support campaigns for wage increase, improvement of maternity benefits, provision of childcare services and elimination of sexual harassment in the workplace.

6. To push for the setting up and protection of local industries in order to generate employment and thus minimize the need for working women to leave their families and work abroad.

7. To initiate moves to stop labor-only contracting especially as it takes advantage of women's cheap labor and makes them vulnerable to abuse.

8. To encourage women's initiatives towards a sound and healthy environment, particularly against chemical and waste pollution, forest denudation and the depletion of marine and coral resources.

## Appendix C:

### Political Prisoners in the Philippines

There are now 285 political prisoners in the Philippines, including sixteen women. Most are being held on criminal charges of kidnapping, murder and rebellion. The longest held woman political prisoner is Ressel Quinimon, arrested at only 18 years of age. Another, Angelina Ipong, age 60, a peace advocate and former lay missionary, was abducted on March 8 (International Women's Day), 2005. Her story is common. Taken by armed men in "bonnets and combat shoes," she was missing for thirteen days. She was then "presented" to the public, charged with rebellion and various other trumped up charges such as arson and homicide. While in custody, she was tortured and sexually molested.<sup>49</sup>

In 2002, eleven Muslim boys, 14-16 years old were arrested and held in general custody for the four years without trial. Because they are Muslims from Mindanao, they are all accused of being members of Abu-Sayyaf, a so-called terrorist group. All eleven boys were tortured. Hooded and handcuffed, they were

beaten for days. Half the boys were given electric shock to their genitals. The youths were initially allowed outside for one and a half hours a day, but have not been allowed out at all for the past year. Several of them have not been able to see their parents. When people do visit Bicutan, where they are being held, they are forced to undergo strip searches before entering the prison.<sup>50</sup>

## **Appendix D:**

### **The Subic Rape Case & The Impact of United States Militarism on Philippine Women**

On November 1, 2005, six U.S. soldiers met a young Filipina woman, “Nicole,” in a bar near the Subic Bay Freeport. Several hours later, she was found lying semi-naked in a roadside ditch. Four of the men were charged with rape. At first, the United States tried to get them off the island and the charges either reduced or dropped, but there was such a public outcry, that the men are currently standing trial. The United States has tried many tactics to delay the trial, thus going over the one-year limit proscribed by the Visiting Forces Agreement (VFA). They have refused to provide U.S. embassy personnel to testify, and at different points have not had the accused even attend the hearings.

The VFA gives the United States jurisdiction over all “crimes” committed by U.S. troops in the line of duty – duty in this case being defined very broadly. The agreement also gives the United States the right to retain custody of its military personnel, even if they are being tried under Philippine law.<sup>51</sup> The U.S. embassy reaffirmed that right last January and the Subic rape defendants remain in U.S. custody as per the VFA.<sup>52</sup>

The presence of U.S. troops on Philippines soil has always been particularly devastating to women. During the Vietnam War, tens of thousands of women became prostitutes for U.S. troops. When the bases closed, an estimated 500,000 women had worked as prostitutes in Angeles and Olongapo, the sites of the biggest U.S. bases. Rape, sexual harrassment, AIDS and some 50,000 fatherless children are the legacies of U.S. militarism.<sup>53</sup> The VFA has created temporary bases throughout the country. These in turned have created numerous new areas for prostitution. In the last five years, prostitution has increased 600 percent in the Philippine archipelago.<sup>54</sup>

## **Appendix E:**

### **The Hacienda Luista Massacre: The Beginning of a Wave of Killings**

Hacienda Luisita is a 600-hectare plantation owned by the Conjuangco-Aquino family, relatives of former president Corazon Aquino. In the fall of 2004, the workers were seeking a pay increase, reinstatement of victimized workers and the long outstanding implementation of Aquino’s 1986 Comprehensive Agrarian Reform Program (CARP). CARP mandated redistribution of land from huge plantations to workers, but Aquino shielded large landowners such as her relatives through a loophole, the Stock Distribution Option (SDO). This was followed by a wave of murders, abductions and violence against peasant farmers, plantation workers and unionists organizing for land redistribution. Many of the slain were directly associated with the Hacienda Luisita dispute or with the farmworkers’ movement for land. For example, on January 5, 2005, four gunmen shot two workers after ramming an SUV into a picket line at the sugar mill.

On October 25, 2005, sugar workers union president Ricardo Ramos, who played a central role in the Hacienda Luisita dispute, was slain by unknown gunmen. Local Tarlac police subsequently identified two AFP soldiers as possible suspects, but neither was arrested. On November 21, AFP troops shot and killed nine farm workers and injured many more at the Barangay San Agustin plantation, claiming they were NPA members. Locals said they were unarmed and were members of Bayan Muna who were protesting against the landlord’s refusal to implement CARP. Francisco Rivera, a Bayan Muna activist, and two friends were gunned while out jogging. Around the same time, the Presidential Agrarian Reform Council passed a resolution to scrap the SDO loophole and to place Hacienda Luisita under the CARP’s land redistribution scheme; the Conjuangco-Aquino family is waging what promises to be a protracted legal battle to stop this. The military perpetrators of the Hacienda Luisita massacre were exonerated.

## **Appendix F:**

### **Threats Against the NDFP Monitoring Committee**

In 1998, the Philippine government and the NDFP signed a Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL). When peace negotiations facilitated by Norway resumed in 2004, the two sides agreed to form a joint monitoring committee (JMC) consisting of nominees from each side and a Joint Secretariat provid-

ing technical support. These Secretariat members are civilian volunteers, such as human rights lawyers, who staff a joint office with the government section to receive and investigate human rights complaints against both sides of the armed conflict. As civilians involved in the peace process, they are covered by another agreement signed early on by both sides, the Joint Agreement on Safety and Immunity Guarantees (JASIG), which allowed negotiations to go forward by making participants in the negotiations immune from arrest and prosecution related to their association with the armed combatants.<sup>55</sup>

Not only does the information in the Batasan 5 rebellion case list the Joint Secretariat's office as if it is the address of the NDFP itself, but it implicates the human rights monitoring staff in the rebellion case despite their immunity. In fact, a list of NDFP personnel covered by the JASIG submitted by the NDFP in 2004 is one of the items of evidence proffered by the prosecution in support of its rebellion allegations. At the same time, the government side has refused to convene its side of the JMC to act on the hundreds of complaints against the Philippine military. The prosecution thus manifests an intention to dispense with the CARHRIHL and with the peace process entirely.

On August 8, 2006, the NDFP-MC released a statement reiterating its proposal to its counterpart in the Government of the Republic of the Philippines (GRP-MC) to form an ad-hoc committee to conduct joint fact-finding investigations into the recent cases of disappearances of unarmed civilian activists and captured suspected revolutionaries. The NDFP-MC proposed that the ad-hoc committee be composed of the nominated independent observers of the GRP and NDFP in the JMC and three members each from the GRP and NDFP nominated sections in the Joint Secretariat (JS). To ensure the safety and security of the ad-hoc committee, a representative each from the Royal Norwegian Government (RNG) and the International Committee of the Red Cross (ICRC) would sit as observers in the committee and join all fact-finding investigations.

According to the NDFP-MC statement, the GRP has rejected this proposal with a lengthy explanation by National Security Adviser Norberto Gonzales and Jesuit priest Father Romeo Intengan of the extra judicial killings and disappearances. They label the victims communists or communist sympathizers/supporters, and continue to claim the victims were killed or disappeared in so-called internal purging. The NDFP points out that Gonzales and Intengan deny the following facts:

1. The testimonies of witnesses and the victims-relatives on the identities of the perpetrators, the circumstances of the killings and disappearances, and the known organizational affiliation of most of the victims who belonged to the legal democratic movement opposed to the Arroyo regime;
2. The pattern and brazenness of the killings which only persons in authority and with resources can perpetrate with no fear of prior discovery and arrest (usually warning the victims first of

their activities as in the case of Noli Capulong, visiting them as in the case of Sotero Llamas, or identifying them as NPA supporters as in the case of Juvy Magsino; the use of motorcycles or tinted vans with no plate numbers; the assassins wearing military headgear or brazenly entering houses and shooting their victims in the presence of their families);

3. The intimidation and harassment of witnesses like those who witnessed the abduction of Eden Marcellana and Eddie Gumanoy, and the killings of witnesses like those of Isaias Manano in Oriental Mindoro who witnessed the killing of Choy Napoles, Marcelino Beltran who testified against the military on the Hacienda Luisita massacre, and Ofelia "Perla" Rodriguez who testified against Jovito Palparan in a public forum;
4. The lobbying by the Arroyo regime with the U.S. and European governments for the inclusion of the CPP, NPA and Professor Jose Maria Sison in the so-called terrorist list which was then used conveniently to justify the extra-judicial killings and disappearances of so-called terrorists;
5. The escalation of extra-judicial killings and disappearances after the launching of Oplan Bantay Laya in 2002, hoping to ride on the US war of terror against legitimate national liberation movements and countries asserting national independence;
6. The promotions, rewards and praises heaped by Gloria Macapagal-Arroyo on identified human rights violators and electoral manipulators such as Hermogenes Esperon, Romeo Tolentino and Jovito Palparan, which make international human rights observers conclude that a climate of impunity exists in the country.

NDFP Monitoring Committee Press Statement, 8/8/06

## Notes:

1 Conde, Carlos, H. *Clamor Grows for Arroyo to Resign*, *International Herald Tribune*, 7/9/2005.  
<<http://www.ihf.com/articles/2005/07/08/news/phils.php>>.

2 *Names of Those Listed on 08-12-02, Commonwealth of Massachusetts*  
<<http://www.sec.state.ma.us/sct/sctter/teridx.htm>>;

*Official Journal of the European Union*, 6/28/2003, L160/81,  
<<http://www.statewatch.org/news/2003/jul/terrlst1jun03.pdf>>.

3 *Full Text Proclamation 1017, Philippine Daily Inquirer*, 2/24/2006,  
<[http://news.inq7.net/breaking/index.php?index=1&story\\_id=67303](http://news.inq7.net/breaking/index.php?index=1&story_id=67303)>.

4 *Philippine Overseas Employment Administration, Overseas Employment Statistics*,  
<<http://www.poea.gov.ph/html/statistics.html>>.

5 *Human Rights Watch, Organizational Report 2006, V: Migrant Domestic Workers*,  
<[http://hrw.org/reports/2006/wrd0706/5.htm#\\_ftnref158](http://hrw.org/reports/2006/wrd0706/5.htm#_ftnref158)>.

6 *In the period from January to March 2005, there were 1331 cases of human rights violations against women. The largest number of cases of violations is connected with harassment, threats and intimidation, forced evacuation and displacement, and destruction of property. As of July 2006, 73 women were victims of political killings; 150 women were victims of unlawful arbitrary detention, 153 were victims of forced disappearance, and 8 women underwent torture.*

*See: Vigilia, Wendell, Urban Poor Women Join Fifth Impeachment Complaint, Malaya News*, 7/7/2006,  
<<http://www.malaya.com.ph/jul07/news6.html>>

7 *1987 Philippine Constitution, Article III, Section 2; Rules of Court, Section 5, Rule 113.*  
<<http://www.gov.ph/aboutphil/constitution.asp>>.

8 *Padilla v. Enrile*, 121 SCRA 472.

9 *1987 Philippine Constitution, Section 11, Article VI: A Senator or Member of the House of Representatives shall, in all offenses punishable by not more than six years imprisonment, be privileged from arrest while the Congress is in session. No member shall be questioned nor be held liable in any other place for any speech or debate in Congress or in any committee thereof.*  
<<http://www.gov.ph/aboutphil/constitution.asp>>.

10 *The information in this section is based on the pleadings and other legal documents filed in the rebellion cases, as well as interviews with the Batasan 6 and their attorneys.*

11 *Sun.Star, Militant Lawmakers March to Freedom*, 5/9/2006,  
<<http://www.sunstar.com.ph/static/net/2006/05/09/html>>.

12 *Motion for Inhibition*,  
<[http://www.pcij.org/blog/wp-docs/Crispin\\_Beltran\\_case\\_DOJ\\_Motion\\_for\\_Inhibition.pdf](http://www.pcij.org/blog/wp-docs/Crispin_Beltran_case_DOJ_Motion_for_Inhibition.pdf)>.

13 *Pabico, Alecks, 'Batasan 5' Vindicated by RTC Ruling Excluding them from Rebellion Case*, *Philippine Center for Investigative Journalism*, 5/5/2006,  
<<http://www.pcij.org/blog?p=899>>.

14 *Ominously, the information against the 51 lists the address of the office of the Secretariat of the Joint Human Rights Monitoring Committee in Metro Manila. as the address for 38 of the accused. See Appendix F, Threats Against the NDFP Monitoring Committee.*

15 *Judge Moya's order simply states, "After examining the record of this case, the Court finds probable cause to believe that accused Lt. Lawrence San Juan, P.A. and Crispin Beltran y Bertiz committed the crime charged. Let a commitment order be issued", and then sets an arraignment date.*

16 *Editorial: Extermination, Philippine Daily Inquirer*, 5/22/2006, p. A14,  
<[http://beta.inq7.net/opinion/index.php?index=3&story\\_id=70165&col=84&published\\_site=25](http://beta.inq7.net/opinion/index.php?index=3&story_id=70165&col=84&published_site=25)>.

17 *The delegation obtained copies of Oplan Bantay Laya.*

18 *Memorandum from Department of National Defense, General Headquarters of Armed Forces of the Philippines, regarding "Target Research on Sectoral Organizations," 9/23/2004.*

19 *Ibid.*

20 *Pazzibugan, Dona, Military's 'Knowing the Enemy' CD Shown to Media, Philippine Daily Inquirer*, 4/8/2005, p A2.  
<[http://news.inq7.net/nation/index.php?index=1&story\\_id=32965](http://news.inq7.net/nation/index.php?index=1&story_id=32965)>.

21 *Orejas, T, Reyes, C., Mallari Jr., Delfin, Palparan Widens Military Drive in Central Luzon, Philippine Daily Inquirer*, 6/18/2006, p A1,  
<[http://news.inq7.net/nation/index.php?index=1&story\\_id=79482](http://news.inq7.net/nation/index.php?index=1&story_id=79482)>.

22 *Mediavilla, Sam, Bayan Muna: 3 in Cabinet Behind Slays, The Manila Times Reporter*, 9/8/2006.  
<<http://www.abs-cbnnews.com/storypage.aspx?StoryId=40143>>.

23 *Orejas, Tonette, Another Leftist Leader Killed, Philippine Daily Inquirer*, 5/15/2006,  
<[http://news.inq7.net/nation/index.php?index=1&story\\_id=75788](http://news.inq7.net/nation/index.php?index=1&story_id=75788)>.

- 24 *Asian Human Rights Commission Urgent Appeals, PHILIPPINES: Nineteen-year-old Activist Found Dead in Abucay, Bataan, 6/2/2006*, <[http://www.atimes.com/atimes/Southeast\\_Asia/HF02Ae04.html](http://www.atimes.com/atimes/Southeast_Asia/HF02Ae04.html)>.
- 25 *Docena, Herbert, Killing Season in the Philippines, Asia Times Online, 3/1/2006*, <<http://www.abrchk.net/ua/mainfile.php/2006/1559/>>.
- 26 *From Facts to Action: Report of the Attacks Against Filipino Lawyers and Judges, Lawyers for Lawyers Foundation, 7/24/2006*, <<http://www.advocatenvooradvocaten.nl/projects.html>>.
- 27 *Lawyers to Lawyers Foundation Press Release, 7/25/2006*, <<http://www.advocatenvooradvocaten.nl/projects.html>>.
- 28 *International Federation of Journalists, Two Journalists Killed In The Philippines, 6/2006*, <<http://www.ifj.org/default.asp?index=3995&Language=EN>>.
- 29 *Asian Human Rights Commission, Forwarded Statement of Rep. Saturnino Ocampo, 8/1/2006*, <<http://www.abrchk.net/statements/mainfile.php/2005statements/672/>>: *International Freedom of Expression Exchange, Update, Aug. 1, 2006* <<http://www.ifex.org/en/content/view/full/76050>>.
- 30 *KARAPATAN 2005 Human Rights Report*, <<http://www.yonip.com/main/articles/HR%20REPORT%202005%20FINAL.pdf>>;  
see also, Teodoro, Luis, *The Human Rights Crisis in the Philippines, in A New Wave of State Terror in the Philippines, IBON Foundation, Inc (2005)*.
- 31 *Inquirer News Service, Q&A: Who's afraid of General Palparan, Philippine Daily Inquirer, 5/19/2005*, <[http://news.inq7.net/regions/index.php?index=1&story\\_id=53796](http://news.inq7.net/regions/index.php?index=1&story_id=53796)>.
- 32 *Avendaño, Christine, Palparan Gets New Job, Philippine Daily Inquirer, 9/9/2006, p A1*, <[http://newsinfo.inq7.net/inquirerheadlines/nation/view\\_article.php?article\\_id=19990](http://newsinfo.inq7.net/inquirerheadlines/nation/view_article.php?article_id=19990)>.
- 33 *Orejas, Tonette, Is the General a Butcher? Newsbreak Magazine, 9/6/2006*, <<http://newsbreak.com.ph/newsbreak/story.asp?id=170>>.
- 34 *del Puerto, Luige, UP Prof: Killings Could be National Security Policy, Philippine Daily Inquirer, 8/2/2006, p A1*, <[http://newsinfo.inq7.net/inquirerheadlines/nation/view\\_article.php?article\\_id=12988](http://newsinfo.inq7.net/inquirerheadlines/nation/view_article.php?article_id=12988)>.
- 35 *op.cit., Asia Times Online, 6/2/2006*, <[http://www.atimes.com/atimes/Southeast\\_Asia/HF02Ae04.html](http://www.atimes.com/atimes/Southeast_Asia/HF02Ae04.html)>.
- 36 *The Commission on Human Rights was mandated under the Constitution of 1987. There are five commissioners, including the chair.*
- 37 *Government Must Answer For All Killings-CHR, Philippine Daily Inquirer*, <[http://news.inq7.net/index.php?+1&story\\_id=76670](http://news.inq7.net/index.php?+1&story_id=76670)>.
- 38 *Uy, Veronic, US Concerned About Media, Activist Killings in RP-Envoy, Philippine Daily Inquirer, 5/21/2006*, <[http://news.inq7.net/top/index.php?index=1&story\\_id=77609](http://news.inq7.net/top/index.php?index=1&story_id=77609)>.
- 39 *See Art. II, 1987 Constitution, Declaration of Principles and State Policies, Section 1: The Philippines is a democratic and Republican state. Sovereignty resides in the people and all government authority emanates from them. State Policies:*
- Section 7: The State shall pursue an independent foreign policy. In its relations with other States, the paramount consideration shall be national sovereignty, territorial integrity, national interest and the right to self-determination.*
- 40 *Art. XVII of the 1987 Constitution of the Philippines provides three methods for initiating amendments to its provisions. The first method requires a simple majority of Congress to convene a "Constituent Assembly". As a Constituent Assembly, both the Senate and the House of Representatives are may be passed by affirmative vote of three-fourths of the members of Congress. Alternatively, Congress may call for a Constitutional Convention by a vote of two-thirds of its members. Delegates to the Convention are then elected directly by the people. The final method of amendment contemplated by the 1987 Constitution is a "People's Initiative," in which the people may directly propose amendments to the Constitution. The People's Initiative requires that a petition for amendment is signed by at least 12% of all registered voters, and that every legislative district is represented by at least 3% of its registered voters. In 1997, the Supreme Court of the Philippines ruled that a People's Initiative cannot be effectuated without implementing legislation by Congress. See Santiago v. Comelec,* <<http://www.supremecourt.gov.ph/jurisprudence/1997/mar1997/127325.html>>
- 41 *House proposal Art. XX SEC. 7. The elections scheduled in 2007 shall be cancelled and the terms of office of all elective officials shall be extended to June 30, 2010.*
- 42 *See Section 12 Art. VII-A of House Proposal.*
- 43 *Scarpello, Fabio, US, Philippines Weigh New Military Marriage, Asia Times Online, 8/23/2006*, <[http://www.atimes.com/atimes/Southeast\\_Asia/HH23Ae01.html](http://www.atimes.com/atimes/Southeast_Asia/HH23Ae01.html)>. Also see Appendix D on Subic Rape Trial.
- 44 *Berrigan and Hartung, U.S. Transfers Since September 11, A World Policy Institute Special Report (June 2005)*, <<http://worldpolicy.org/projects/arms/reports/wawjune2005.html#10>>.

45 Library of Congress – Federal Research Division, Country Profiles: Philippines, March 2006, p. 23, <<http://lcweb2.loc.gov/frd/cs/profiles/Philippines.pdf>>.

46 U.S. Embassy, Manila Press Release : The Philippines and the United States Establish Security Engagement Board, 3/24/2006, <<http://usembassy.state.gov/manila/wwwhr824.html>>.

47 In its recently released 2006 Report's Philippines section, Amnesty International states that "scores of leftist activists were killed by unidentified assailants, often reportedly linked to the armed forces." A copy of the report is available at <<http://web.amnesty.org/report2006/phl-summary-eng>>.

The report goes on to say that there is "a climate of impunity shielding the perpetrators" of the attacks on leftist activists and community workers, noting that the "Increased killings in particular provinces were reportedly linked to the public labeling of leftist groups as NPA front organizations by local AFP commanders." Increased public scrutiny and international attention are crucial to exposing the Arroyo administration's disregard of the rule of law and human rights.

48 On August 1, 2006, the day following three more killings, President Arroyo announced that she was giving the DOJ and PNP a "10-week deadline" to jail suspects in at least 10 media or leftist killing. See: Dalangin-Fernandez, Lira, Arroyo Sets 10-week Deadline to Doj, PNP to Solve Killings, Philippine Daily Inquirer, 8/1/2006, <[http://newsinfo.inq7.net/breakingnews/nation/view\\_article.php?article\\_id=12854](http://newsinfo.inq7.net/breakingnews/nation/view_article.php?article_id=12854)>.

49 KARAPATAN documents examined by the delegation. Also: Karapatan Press Release: KARAPATAN says GMA government not complying with UN Convention against Torture, Samar News, 6/26/2006, <<http://www.samarnews.com/news2006/jun/f696.htm>>.

50 Interviews by the Delegation.

51 For the full text of the Visiting Forces Agreement (VFA) go to: <<http://www.chanrobles.com/visitingforcesagreement1.html>>.

52 Embassy of the United States in Manila Press Release: Facts About the US-Philippine Visiting Forces Agreement, 1/20/2006, <<http://manila.usembassy.gov/wwwhr711.html>>.

53 Villadiego, Rita, Bush, Arroyo To Discuss Plight of Amerasian Kids, Philippine News.com, 9/10/2003, <[http://www.philippinenews.com/news/view\\_article.html?article\\_id=95e36e19bf59a43d9ce438aad56dc1c6](http://www.philippinenews.com/news/view_article.html?article_id=95e36e19bf59a43d9ce438aad56dc1c6)>.

54 Delegation interviews with members of GABRIELA and GWP.

55 Delegation interviews and documents provided by NDFP secretariat.

## Resources:

### For further information:

**GABRIELA Network** – a Philippine-US Women's Solidarity Mass Organization  
PO Box 403, Times Square Station,  
New York, NY 10036  
(212) 592-3507  
Email: [gabnet@gabnet.org](mailto:gabnet@gabnet.org)

### International Association of Democratic Lawyers

Office of the International Representative to the United Nations  
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### National Lawyers Guild (NLG)

National Office  
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### For Philippine Sub committee:

<http://www.nlginternational.org/com/main.php?cid=9#us>

### Center for Constitutional Rights

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(212) 614-6464  
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## Biography

**Tina Monshipour Foster** is a human rights attorney specializing in International Human Rights and Constitutional Law. Her work on behalf of hundreds of foreign nationals who have been illegally detained by the U.S. government has taken her across the globe, and her recent work in Afghanistan, Yemen, and Bahrain is featured in “American Gulag -- Prisoner’s Tales from the War on Terror,” which appears in this month’s Harper’s magazine.

From November 2004 to May 2006, Ms. Foster was an attorney with the Center for Constitutional Rights (“CCR”) and served as Counsel for CCR’s Guantanamo Global Justice Initiative -- a project overseeing lawsuits on behalf of more than 400 men detained at Guantanamo Bay, Cuba. She is also a plaintiff in CCR’s lawsuit against President Bush and the National Security Agency for illegal wiretapping of U.S. citizens. The suit is currently pending in U.S. District Court for the Southern District of New York.

Most recently, Ms. Foster founded the International Justice Network (“IJN”) – a charitable organization dedicated to advancing the rights of victims of human rights abuses. For more information about Ms. Foster or IJN’s work, please visit <<http://www.internationaljusticenetwork.org>.

**Rachel Lederman** is a civil and human rights attorney and activist. She practices civil rights, housing, criminal appellate and juvenile appellate law in a small community law office in San Francisco, and is a longtime leader in the Bay Area National Lawyers Guild Demonstrations and Post-9/11 Committees.

Ms. Lederman litigated a federal class action lawsuit against the City of San Francisco on behalf of 300 people who were arrested during a locally declared State of Emergency in 1992, winning a \$1 million settlement and an important appellate decision on the right to demonstrate, *Collins v. Jordan*, 110 F.3d 1363 (9th Cir. 1997).

As part of a National Lawyers Guild / ACLU legal team, she helped obtain more than \$1.5 million and a comprehensive overhaul of Oakland Police crowd control policy in litigation arising from the 2003 shooting of 58 antiwar demonstrators with “less lethal” munitions. Ms. Lederman has successfully represented thousands of political demonstrators in criminal proceedings over the past 19 years.

Immediately following 9/11/01, she wrote the NLG’s widely distributed Know Your Rights materials and helped start and supervise the NLG’s Post-9/11 Hotline to provide legal assistance to people targeted for FBI and INS questioning, harassment and detention.

Ms. Lederman and her partner, who have two elementary-age sons, are plaintiffs in *Woo v. California*, a lawsuit challenging California’s exclusion of same-sex couples from marriage.

**Vanessa Lucas** practices with the law firm of Edelstein & Payne in Raleigh, North Carolina. Her practice focuses on representing plaintiffs in a variety of areas including employment, labor law, and civil rights. Recently, Ms. Lucas was co-counsel representing more than 200 employees of Consolidated Diesel Company in their successful demand, under the North Carolina Wage and Hour Act, for an unpaid portion of their 2002 bonus.

Before relocating to Raleigh, Ms. Lucas had volunteered with the San Diego Volunteer Lawyer Program helping to represent indigent clients with HIV and AIDS. She also interned at the Institute for Peace and Justice in San Diego, California where she researched and wrote on human rights and conflict issues.

Ms. Lucas received her B.A. from the University of Michigan and a joint Juris Doctor and Master’s degree in International Business Administration from the University of San Diego. Ms. Lucas is a member of the National Lawyers Guild and the North Carolina Academy of Trial Lawyers. Ms. Lucas’ interests include using international law in domestic practice and immigrant rights. She speaks Spanish.

**Merrilyn Onisko** currently works in the field of international law in Washington, D.C. Prior to this, she did First Amendment litigation as a staff attorney at the Partnership for Civil Justice in Washington, D.C.

After graduating from law school in 2003, Ms. Onisko worked as an international legal researcher in the Palestinian refugee camps in Lebanon. As part of her work, she presented a paper on the legal status of Palestinian refugees in Lebanon to the U.N. Committee on the Elimination of all Forms of Racial Discrimination (CERD) in Geneva. While in Geneva, she also presented a paper on Palestinian refugees to the Non-Citizens Rights conference sponsored by the Open Society Institute.

In 2004, Ms. Onisko returned from Lebanon and organized the first National Lawyers Guild (NLG) delegation to the refugee camps in Lebanon. From this delegation came an educational DVD and report on the current conditions in the camps which has been used in numerous law schools and NLG chapters around the country.

In 2003, Ms. Onisko worked as a legal intern at a Palestinian prisoner’s rights association in Ramallah, Palestine. That year, she also participated in a National Lawyers Guild delegation to Palestine.

Ms. Onisko currently serves as the co-chair of the Middle East Subcommittee of the National Lawyers Guild, on the Steering Committee of the International Committee and the United Nations Subcommittee of the National Lawyers Guild, and as alternate representative to the United Nations for the International Association of Democratic Lawyers (IADL). She recently returned from Bulgaria and Cuba where she presented reports on UN activities to the IADL Bureau. She speaks, French, Russian, Spanish and conversational Mandarin.