

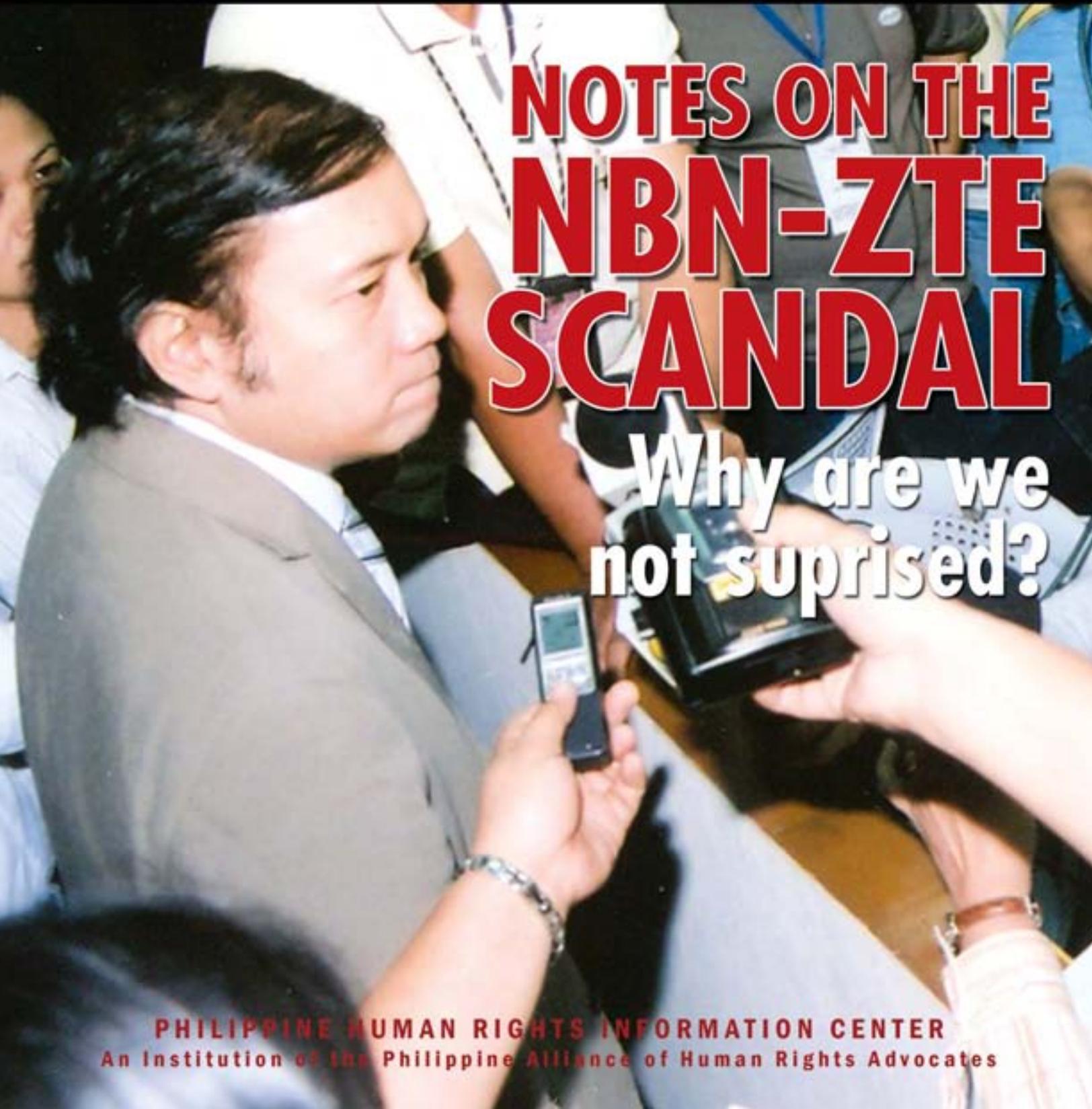
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NOTES ON THE NBN-ZTE SCANDAL

Why are we
not surprised?

PHILIPPINE HUMAN RIGHTS INFORMATION CENTER
An Institution of the Philippine Alliance of Human Rights Advocates



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■ EDITORIAL

Korapsyon

NOONG panahon ni FVR, ilan sa mga nabunyag na kwento ng katiwalian ay ang PEA-Amari, kontrata sa mga *independent power producers*, at Expo Filipino.

Kay Erap, payola sa jueteng, Boracay Mansion, at mga pandaraya sa *stock market*.

Syempre hindi rin pahuhuli si Ate Glo. Nandyan ang *overpriced* na Diosdado Macapagal Boulevard, ang misteryosong *bank account* ni Jose Pidal, *fertilizer scam*, at ang kontrobersyal na *ZTE national broadband network deal*.

Mula sa antas ng Presidente hanggang sa mga lokal na opisyal sa barangay, tila naging bahagi na ng pampulitikang kultura ng mga Pinoy ang korapsyon. Masyado na tayong nabantad dito at itinuturing na ngayong 'normal' ang pag-*kickback* ng mga pulitiko sa pondo ng mga pagawaing bayan. Ang tawag nga ng mga *contractors* sa porsyento ng mga mambabatas, lokal na opisyal, at mga kawani ng pamahalaan sa *budget* ng mga pampublikong proyekto ay 'SOP' o *standard operating procedure*.

Maganda na sanang senyales ang hatol na 'guilty' ng Sandiganbayan kay dating pangulong Estrada sa kasong pandarambong ('plunder'), sapagkat sa unang pagkakataon ay may mataas na opisyal ng pamahalaang naparusahan. Ngunit ilang linggo lamang ang lumipas at muling namayani ang laro ng pulitika at binigyan ng 'pardon' ni GMA ang na-convict na dating lider ng bansa. Ganun na lang 'yun?

Sa ZTE naman, bagama't ibinunyag ni dating kalihim Romulo Neri ang tangkang panunuhol ni dating Commission on Elections chairperson Benjamin Abalos, tumikom ang bibig nito at nagtago sa saya ng 'executive privilege' nang maunghang ang posibleng

papel ni Pangulong Arroyo sa iskandalong ito.

Ang pinakahuling pumutok na insidente ng suhulan ay mismong sa Malakanyang pa naganap at nakuha pa sa *video* ang mga mambabatas at mga lokal na opisyal na lumalabas sa palasyo at tila mga batang may bitbit na mga 'regalo.' Ang mali lang ng mga namigay ng suhol, pati si Fr. Ed Panlilio na gobernador ng Pampanga ay inabutan nila at ito ang siyang nagbunyag sa nangyaring pamimigay ng pera matapos makipagpulong ng pangulo sa mga nasabing opisyal.

Sobra na nga sigurong nasanay sa ganitong kalakaran ang mga nasa pamahalaan at wala na silang nakikitang mali rito kahit na ang perang ipinamumudmod upang makuha ang katapatan ng mga opisyal na ito ay galing sa kaban ng bayan.

Bukod sa dapat nilang tandaan na ang panunuhol at katiwalian ay nanatiling krimen sa ilalim ng ating mga batas, dapat din nilang isipin na sa bawat pisong napupunta sa kanilang bulsa ay may napagkakaitang mga indibidwal ng kanilang mga karapatan.

Ang dapat sa mga tiwaling opisyal ng pamahalaan ay pansamantalang patirahin sa mga lugar na napakahirap puntahan dahil sa kawalan ng maayos na kalsada at hindi rin naaabot ng serbisyo ng kuryente at komunikasyon. O kaya ay isang linggo silang makipamuhay sa mga pamilyang nakatira sa ilalim ng mga tulay o kaya ay sa mga kariton para maramdaman nila ang dinaranas ng mga Pilipinong wala na ngang sapat na kabuhatan ay hindi pa nakakatanggap ng mga serbisyong panlipunan mula sa pamahalaan.

Sa ganito ring paraan, maiintindihan nilang ang pangungurakot ay hindi lang pala krimen kundi paglabag na rin sa karapatang pantao ng mga mamamayan.

NOTES ON THE NBN-ZTE SCANDAL

Why are we not surprised?



■ By **PERCIVAL CENDAÑA**

YES, it was big, bold and brazen. But in the end there was nothing really surprising about the NBN-ZTE scandal because the Arroyo administration has raised the bar of corruption in the country to an almost numbing level. It is also not surprising if not a single soul is sent to purgatory because of involvement in this incredibly terrible deal.

On the political front however, the scandal has laid bare the cracks in the makeshift foundations of President Arroyo's continued reign. The foundations that were originally cemented by greed for both wealth and power are now weakening as courtiers and

family members of the president eagerly fight over the spoils. The botched National Broadband Project is in the six to seven billion-peso range. Simply put, this is a very big pool of corruptible money—so big an amount that loyalties can be breached.

The China syndrome

As China developed into an economic powerhouse, it has accumulated a veritably impressive foreign reserve pool. The Chinese government sits on one the largest (if not the largest) foreign exchange reserve of any single country in the world. This enormous amount is tentatively pegged at more than a trillion US dollars. This is where the corruptibility of projects paid for with Chinese government loans begin.

Because so much money is just sleeping in their coffers, China is very anxious to lend it out and make profit in the market. But the lending out of the Chinese government's money is not without strings attached.

First, it has onerous terms wherein the Chinese government chooses the contractors and insists on settlement of contract disputes in Chinese courts. Second, allowances for kickbacks and bribe money are seemingly incorporated into the contract cost.

No wonder, a project that should have cost \$130 million ballooned into a whooping \$329 million fiasco.

This particular scenario presents an environ that is very conducive to corruption. As



usual, Filipino politicians are more than willing to grab the "opportunity."

De Venecia connection

At first, the exposé of Joey de Venecia was quite surprising. A lot of people were wondering as to what prompted an important ally or cohort of the president to spill the beans. Scratching the surface would reveal that there is nothing really surprising about de Venecia's action (or reaction as some would put it). It was just a simple case of some crook whining because he was robbed of his loot. In this case, the whining actually meant that he was robbed "not once, but twice."

Speaker Jose de Venecia was the first agent or salesperson of the Chinese government in the country. He was responsible for



PJR/LITO OCAMPO

The cast of characters in the NBN-ZTE scandals: Joey de Venecia, the First Gentleman Mike Arroyo, Jarius Bondoc, Benjamin Abalos.



deal. But it was said that he has been robbed of the project by no less than the First Gentleman. The second blow came when the \$329 million NBN project was awarded to ZTE Corp., cutting out the share of his son's Amsterdam Holdings Inc. This time, the deal was brokered by Malacañang's own agent, then-COMELEC Chair Benjamin Abalos.

As expected, the Speaker got very angry because he could not stand being robbed by Malacañang the second time around.

Speaker de Venecia did not take the "back off" warning of the First Gentleman lightly. He, in effect, asserted his right to the loot by waging a campaign against the NBN-ZTE project. He used his pawn in media, Jarius Bondoc, to lay bare the lopsided deal. And to heighten the drama, his son Joey entered the fray. The battle soon took a life of its own.

In the future, it would be interesting to know if Speaker de Venecia originally intended to implicate Malacañang or he was just using the exposé as leverage to get his "fair share" of the deal.

Rashomon

Rashomon is a cinematic gem helmed by acclaimed Japanese film director Akira Kurosawa. In the film, a crime



opening up the corruption floodgate in the country to China. The Chinese-funded Northrail Project was a de Venecia project in the beginning. He was the one who shepherded the approval of the



PJR/LITO OCAMPO

was witnessed by four individuals and they recount the incident in four contradictory ways. The Senate investigation of the NBN-ZTE project was an interesting treat: it was Rashomon in real life. The public heard stories told Rashomon-fashion.

The Wack Wack Golf Club incident involving the First Gentleman and Joey de Venecia was very interesting because the young de Venecia and the First Gentleman have disparate accounts of what actually transpired in the fairways. The Speaker's son alleged that Mr. Arroyo told him to back off the deal while the first gentleman insists that no such warning was given.

Another interesting incident was the one with COMELEC Chair Benjamin Abalos and former NEDA Director Romulo Neri. Neri recalled that Abalos attempted to bribe him to get his endorsement for the project. Neri's account was vivid except that he cannot be certain of the exact amount, whether it was two hundred thousand or two hundred million. Abalos presented his own vivid recollection of the incident and said that no offer was made.

Even DOTC Secretary Leandro Mendoza's recollection of the process of the project's approval differed from the paper trail presented before the Senate panel.

What is most damning is when two persons who are supposed to be in the same camp do not agree on a crucial issue to the point of contradicting each other. This happened when Secretary Mendoza and DBM Secretary Rolando Andaya gave two different takes on the nature and legal framework of the NBN project.

A truth with multiple versions is only possible in movies like Rashomon. In real life when this truth has two or more versions, someone is clearly lying. The NBN-ZTE scandal has elevated lying in full view of the public, even under oath, to the level of a competitive sport.



Joey de Venecia faces the media.

PJR/LITO OCAMPO



DOTC Secretary Mendoza

Executive privilege

The day before his testimony, Romulo Neri promised to drop a bomb so explosive that it could lead to another EDSA uprising. But when the question on the involvement of the President came, he invoked the mythical executive privilege, thus evading the question of the day. Some observers believe that Malacañang pressured and/or coerced Neri to follow the palace script.

In the case of the NBN-ZTE scandal, executive privilege has taken a new meaning. Now it

means the privilege of the "executive" to enter into anomalous deals with hefty kickbacks.

This brings us to the very core of the National Broadband Project—its relevance and usefulness. Experts including two economics professors from the University of the Philippines insist that there is no need for such a project because two broadband networks operated by private companies are already in place. Also, the Philippine government already owns the Philippine Administrative Network Project (PANP) and the Philippine Research, Education and Government Information Network (PREGINET).

The DOTC, the implementing agency, up to now cannot show a feasibility study that would merit the building of a national broadband network. What prompted the project could be the availability of credit from the Chinese government rather than need and relevance.

The NBN-ZTE project clearly has no apparent purpose other than further enriching the executive in Malacañang and her cronies.

No expectations

Had the NBN-ZTE project pushed through, it could have increased the already gargantuan national government debt by more than two percent. In twenty years, taxpayers would have shelled out a total of \$527 million to pay the interest and principal amortization of the NBN-ZTE loan.

Even with such an obscene amount, we cannot really exact accountability from those involved in this corruption scandal. It is expected that the officials responsible for this fiasco will go unpunished.

Even if the cracks in the Arroyo's inner chambers have been exposed because of the scandal, this would be easily repaired by a brand of cement called greed. This government has really mastered the art of payola. A few days after the deal was exposed, the palace was distributing money to governors and congressmen.

This is not at all surprising. Remember, we live in the era of Gloria Macapagal Arroyo. ■

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PERCIVAL CENDAÑA is the Deputy Secretary General of Akbayan Party-list.



HEALTHCARE UNDER LOCK AND KEY

Dissecting the Hospital Detention Law

■ By CANDY DIEZ

THE Right to Health of everyone is guaranteed both in international conventions and domestic laws.

The 1987 Philippine Constitution under Article 13, Section 11 states, *"There shall be priority for the needs of the under-privileged, sick, elderly, disabled, women, and children. The State shall endeavor to provide free medical care to paupers."*

The United Nations International Covenant on Economic, Social and Cultural Rights (UN ICESCR) also stresses the right to health of everyone. Article 12.2-D

emphasizes: *"The creation of conditions which would assure to all medical service and medical attention in the event of sickness"*.

However in spite of these state guarantees and

conventions, quality and affordable healthcare remains elusive for Filipinos.

The unfortunate, impoverished people

Suffering from prolonged labor, Marites was admitted in Bukidnon Provincial Hospital in Maramag on the 12th of July, 2007. She was then pregnant with her 7th child.

With her husband afflicted with malaria, Marites was left with 6 children to feed, a Php4,750.00 unpaid hospital bill and a new-born baby detained with her at the provincial hospital's abandoned outpatient department. Without sufficient finances to settle hospital obligations, Marites and her baby still remained admitted almost a month after she was hospitalized.



Photos: MEDICAL ACTION GROUP (MAG)



Detainees: Indigent patients and their families kept in detention at the Bukidnon Provincial Hospital of Maramag. Photos: MEDICAL ACTION GROUP (MAG)

Marites was just among the 18 patients who lay languishing in carton mats in a ward resembling a detention ward in the Bukidnon Provincial Hospital in August of 2007. Bukidnon patients were constantly afraid of acquiring other diseases during their stay in the filthy hospital ward. Patients detained for almost three months have reportedly tried to escape the hospital premises for lack of adequate food and nourishment provided by the hospital.

to demand for his/her medical certificate as well as other papers necessary for his/her release from the said medical facility. In case of deceased patients, the corresponding certificates and other documents shall be similarly released to the patients' relatives.

Failure to adhere to the Hospital Detention Law would entail fines amounting to not less than twenty thousand pesos (P20,000.00), but not more than fifty thousand pesos

The state's lack of political and moral will to address the issue of healthcare remains evident in the 2007 National Budget.

(P50,000.00). The violating party may also be imprisoned for not less than one month, but not more than six months. Both fine and imprisonment may also be applied depending on the discretion of the proper court.

The Hospital Detention Law, however, does not apply to patients who opted for private rooms. It prioritizes indigent patients.

Profits vs public service
While the Hospital

The Hospital Detention Law

To address the recurring cases of patients who get held in hospitals because they were unable to pay their bills, a legislative measure was enacted in April 27, 2007, declaring the act of detaining patients in hospitals illegal.

Under Republic Act No. 9439, popularly known as the Hospital Detention Law, patients without the financial capacity to settle their hospital obligations but have fully or partially recovered are allowed to leave the hospital or medical clinic upon the accomplishment of a promissory note.

The promissory note covering the patient's hospital expenses should be guaranteed by a mortgage or a co-maker who will be similarly held liable for the unpaid hospital dues.

A patient also has the right



Gaol or refuge? Under RA 9439, hospitals cannot detain patients who are unable to pay for medical services.

Detention Law gained praise for its pro-poor principles, its passage did not please hospital owners as well as doctors and nurses. The Private Hospitals Association of the Philippines (PHAP) began publicly airing their opposition to the law.

PHAP argued that without the payments from hospital fees, hospital funds will not suffice for medicine and equipment expenses as well as the salaries of hospital employees. The group added that the hospital's lack of fund sources will lead to closures of hospitals and will further drive health professionals to work abroad, where better compensation and benefit packages await them.

Rustico Jimenez, spokesperson of PHAP, argued that many hospitals are burdened with unpaid bills. According to him, among the patients who secured promissory notes, only one out of 10 of them honored the promissory agreements. Meanwhile, in their desperation, other patients resort to providing fictitious names and addresses to avoid their unpaid obligations.

With these arguments, PHAP threatened to conduct a nationwide 'hospital holiday,' with PHAP member hospitals closing down two to three times a month (although their emergency wards will be kept open). The holiday will continue until 2008 or until the law is amended or reasonable Implementing Rules and Regulations (IRR) are formulated. Among the 300 member hospitals of PHAP are St. Luke's Medical Center, Asian Hospital, University of Santo Tomas (UST) Hospital, Medical City, and the Makati Medical Center.

The Department of Health (DOH) responded to the appeals of PHAP to consider the private hospital's interest in the issue. DOH, through Undersecretary Alexander Padilla, invited PHAP in the formulation of the IRR of the Hospital Detention Law.

PHAP relented and postponed its planned strike. But after the initial crafting of the



Photo: MEDICAL ACTION GROUP (MAG)

IRR, the group renewed its call for the hospital boycott, saying the IRR can not sufficiently protect the interest of the private hospitals.

During the hospital holiday debates, DOH Secretary Francisco Duque III contested the arguments of the possible decrease in the private hospitals' profits. Duque pointed out that these hospitals are actually receiving sufficient funds from PhilHealth. According to the Health secretary, 70% of PhilHealth reimbursements go to private hospitals, and a meager 30% was reimbursed to government hospitals.

Last priority

According to the latest analysis (2003) of the National Statistical Coordination Board (NCSB), **24 out of 100 Filipino families have not earned enough to fulfill their basic food and non-food needs.** Unemployment rates also remained high according to the National Statistics Office, with 2.8 million Filipinos unemployed as of July this year.

With not enough earnings to spend for basic necessities, healthcare remained the least of

the Filipinos' priorities.

In 1999, the DOH reported that cases of under medication (antibiotics) or over-medication on cheap preparations were prevalent. The World Health Organization meanwhile attested in their World Drug Situation in 2000 that less than 30% of Filipinos have regular access to medicines. 40% have never seen a doctor.

In 2006, a meager 2.9 percent is being spent on medical care by a Filipino family. Expenditures on healthcare reflected that 24.1 percent alone was spent on hospital room charges in 2001. 21.7 percent was used for other medical charges such as doctor's fees.

With poverty plaguing Filipinos around the nation, to trust in the government's health care aid is the second most logical recourse. The state however, has again failed in this aspect.

The state's lack of political and moral will to address the issue of healthcare remains evident in the 2007 National Budget. The state's budget for health in 2007 was only 1.28 % of the National Budget compared to the 8% allocation

for national defense and 21% for debt service.

In fact in the WHO World Health Statistics 2007, the Philippines received a low rank (153rd out of 192 countries) in the government's health spending as a share of a country's total spending on health.

Thus it is no longer surprising that in a study conducted by the World Bank in 2001, data showed that Filipino patients prefer private hospitals over government health facilities. According to the Filipino Report Card of Pro-Poor services, patients utilize the private hospitals and clinics the most in the Philippines and across the regions (46%-59%). Government hospitals ranked second with 30%-45% nationwide and in NCR and Luzon.

In spite of their financial limitations, Filipino families continue to demand for quality and satisfactory healthcare services. This demand is far from being met by the government, what with a measly health budget allocation each year. The need for better healthcare is therefore being answered by the private hospitals.

In the guise of healthcare reform

While sincerely attempting to resolve the accessibility and affordability issues of healthcare, the passage of the Hospital Detention Law has just merely transferred the state's obligations to the private sector.

Instead of creating an environment in which healthcare is accessible and affordable by allocating sufficient health budget to address the healthcare needs of the public, the government has preferred to prioritize expenditures for national defense and debt servicing.

Patients are then forced to make out-of-pocket payments, driving them to the mercy of private hospitals that are charging fees beyond the patients' financial means.

Private hospitals, meanwhile, are far from being unscathed. In their desire to earn more profits, they have managed to neglect the individuals they have sworn to protect and care for. Thus healthcare in the private sector is oftentimes based on the financial capacity of the patient.

While the blatant profiteering of private hospitals at the expense of the poor Filipino patients is by itself condemnable, their arguments, however are not. The threat of hospital closures as well as the possible increase in the migration of health professionals cannot simply be disregarded.

In 2003, two hundred hospitals closed down and eight hundred were partly closed due to the lack of health workers. The Philippines to date is the number one exporter of nurses around the world. An estimated 85% of Filipino nurses are working abroad. The Professional Regulation Commission in 2004 reported that 8,931 nurses leave the country each year. The large international demand for nurses triggered the doctors to become nurses as well. The medicine enrollees have decreased by 33% in 2004.

If the government is truly sincere in its efforts to address



the cases of hospital detention in the country, the passage of a law prohibiting such cases will never be enough.

Until the widespread poverty continues to ail the Filipinos, until the government truly recognizes its right to health obligation to its people, until comprehensive and systematic reforms in the various aspects of the healthcare system in the Philippines are implemented, the passage of the Hospital Detention Law will only remain a symbolic gesture of the state's attempt to fulfill its Right to Health obligations to the Filipinos.



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CANDY DIEZ works with the Medical Action Group (MAG).

Photos: MEDICAL ACTION GROUP (MAG)

■ By **Mary Aileen Diez-Bacalso**

Until when shall we wait?

ON August 30, 2001, on the occasion of the International Day of the Disappeared, a delegation from the Asian Federation Against Involuntary Disappearances (AFAD) and the Families of Victims of Involuntary Disappearance (FIND) had an audience with then newly-installed President Gloria Macapagal Arroyo. The delegation brought to the president's attention the still unresolved cases of enforced disappearances of the previous regimes (Marcos, Aquino and Ramos administrations). The president promised that in her administration there would be no single case of enforced disappearances.



AFAD and FIND lobbied for the Philippine government's support for what was then a draft United Nations Convention for the Protection of All Persons from Enforced or Involuntary Disappearances as well as for the enactment of the anti-enforced disappearance bill. The president assured the delegation that the Philippine government would support the international treaty and would enact a domestic law criminalizing enforced disappearances. She then referred us to then-Vice President and Secretary of Foreign Affairs, Teofisto

DISAPPEARANCES CONTINUE WITHOUT LET-UP



Relatives of *desaparecidos* (disappeared) and advocates tireless in their quest for justice.
(PEPITO FRIAS)



Former Akbayan Rep. Etta Rosales, Edith Burgos, mother of missing activist Jonas Burgos, and the author pause for a brief chat while enforced disappearances opponents hold vigil for victims of human rights violations (right photo).

Guingona who likewise promised to do something concrete for the Philippine government's support to the treaty.

Five years after, on December 20, 2006, the UN General Assembly unanimously adopted the Convention. Less than a couple of months later, on February 7, 2007, fifty-seven countries signed the newly adopted international treaty. The number of signatory countries would reach 61 within a few months.

This Convention provides for two new rights: the right to truth and the right not to be subjected to enforced disappearances.

Surprisingly, despite the Philippines' record of being prompt when it comes to signing UN treaties, our country is not one of the signatories to this newly adopted treaty.

The much-needed Philippine domestic law criminalizing enforced disappearances, which was expected to be the first ever law against enforced disappearance in Asia, has never seen the light of day. Recent developments show the likelihood of Nepal being the first Asian country to enact such a law. The bill, which has languished in Congress for thirteen years now, was filed anew when the 14th Congress assumed its function, with Rep. Satur Ocampo and Rep. Edcel Lagman

as authors. Supporters of the bill have to start from square one again in their lobby work.

In a meeting with representatives of the Permanent Mission of the Philippines to the United Nations in Geneva during the September 2007 session of the UN Human Rights Council, AFAD renewed its appeal for support. The same response was heard: the Mission had not yet received instruction from Manila. Still, the Mission gave a reassurance that the Philippine government is performing its human rights commitment step by step, as manifested in the repeal of the death penalty, its support to the Convention Against Torture and the approval of the Writ of Amparo.

But there is nothing reassuring about the continued and unabated cases of forced disappearance in the country. As cases of disappearances remain unsolved, the families of the disappeared incessantly ask: Until when shall we wait?

The international convention

The International Convention on the Protection of All Persons from Enforced or Involuntary Disappearance is a universally binding instrument intended to address the problem of enforced disappearances. The final text of the Convention was approved in



Photos: Asian Federation Against Involuntary Disappearances (AFAD).

September 2005 by the inter-sessional Open-ended Working Group to Elaborate a Draft Legally-Binding Normative Instrument for the Protection of All Persons from Enforced or Involuntary Disappearances. It was adopted by the UN Human Rights Council on June 27, 2006, approved by the General Assembly in December 2006, and signed by 57 States on February 7, 2007 in Paris. As of this writing, four more governments had signed the treaty. The Convention will enter into force as soon as it is ratified by 20 States.

The Convention states that no person shall be subjected to enforced disappearances under any circumstances, may it be a state of war or a threat of war, internal political stability or any other public emergency. It

strongly holds that enforced disappearance constitutes an offense under criminal law as it considers this widespread and systematic practice a crime against humanity.

Furthermore, the Convention provides for the right of the relatives of the disappeared person and of the society as a whole to know the truth regarding the fate and whereabouts of the disappeared and on the progress and results of the investigation.

State Parties to the new Convention shall cooperate in searching for, locating and releasing disappeared persons and, in the event of death, in exhuming and identifying them and returning their remains.

Moreover, the Convention contains a provision that emphasizes the right to form



Rep. Rosales was one of the main authors of the anti-enforced disappearance bill during her stint in Congress. Photos: AFAD



and participate freely in organizations and associations supporting the cause of the disappeared.

Finally, the Convention provides that:

- Enforced disappearance is a continuing offense,

therefore statutes of limitation shall not apply until the fate and whereabouts of the victim are established;

- Enforced disappearances constituting crimes against humanity (systematic and widespread practice) are

imprescriptible;

- No one shall be held in secret detention;
- All State Parties shall establish official registers of persons deprived of liberty;
- In cases of enforced disappearance “victim” means the disappeared person and any individual who has suffered harm as a direct result of an enforced disappearance; and
- All victims (in the broad sense stated above) of disappearance have the right to obtain reparation and prompt, fair and adequate compensation. This shall include:
 - restitution,
 - rehabilitation,
 - satisfaction (including restoration of dignity and reputation), and
 - guarantee of non-repetition.

Asian countries do not have a regional mechanism to protect, promote and uphold human rights, be it a Convention, a Commission or a Court. In comparison, Latin America has its Inter-American Convention for the Protection of All Persons from Enforced or Involuntary Disappearances, while Europe has several human rights instruments such as the Council of Europe and the European Convention on Human Rights. Moreover, at

present, not a single country in Asia has a national law criminalizing enforced disappearances. Thus, the Convention, if adopted and ratified, will facilitate the enactment of national legislations criminalizing enforced disappearances and ensure the implementation of the provisions of the future treaty.

A look at statistics will show why Asian countries are in direst need of such mechanisms. Recent reports of the UN Working Group on Enforced or Involuntary Disappearances show that the highest number of disappearances occur in the Asian countries. The cases occurred in the past and continue to happen at present, as in the experience of the Philippines. With the absence of national, regional and international mechanisms criminalizing enforced disappearances, the UN is the only venue which the families of the disappeared in the Asian region can use.

A state that ratifies the said Convention will be compelled to enact the necessary legislation to ensure that it fulfills its international obligations. While it may not have a felt effect in the short-term, it will still be able to oblige States to act in a more humane manner.

The anti-enforced disappearance bill, which is on its 13th year since it was first filed by the late Rep. Bonifacio Gillego,

adopts the definition provided for in the international Convention and many of its salient provisions.

The Convention is a clear step in the struggle against impunity. It would ensure indictment of the perpetrators and provide hope to the survivors and the relatives of the victims.

Under scrutiny: Human rights record of Philippines

At no other time than now should the Philippine government sign and ratify the Convention and make way for a national law criminalizing enforced disappearances. Several times, the government of France, in many joint events with AFAD, called on the Philippine government to do so. As a member of the UN Human Rights Council, the Philippines should manifest its political will to resolve past cases of enforced disappearances and prevent their recurrence. It should do this especially since the Philippine government is once again in the limelight because of its appalling human rights record.

The country faces censure from the international community because of the rising number of cases of human rights violations, particularly cases of enforced or involuntary disappearances and extra-judicial executions.

According to the human rights group *Karapatan*, in a presentation before the National Consultative Summit on Extra-Judicial Killings and Enforced Disappearances called for by the Supreme Court, 188 cases of enforced disappearances have been documented since the Arroyo administration assumed power in 2001.

One of these recent cases is that of Jonas Burgos, 37, a peasant organizer who was forcibly taken by four unidentified men and a woman on April 28, 2007. Despite the filing of a case of *habeas corpus* and the extraordinary efforts of the victim's mother, Jonas is nowhere to be found. The case



Asian Federation Against Involuntary Disappearances (AFAD) lobbied hard before the United Nations for the ratification of the International Convention on the Protection of All Persons from Enforced or Involuntary Disappearance.

Photo: AFAD

The much needed Philippine domestic law criminalizing enforced disappearances, which was expected to be the first ever law against enforced disappearance in Asia, has never seen the light of day.

..... has been personally filed before the UN Working Group on Enforced or Involuntary Disappearances by Edita Burgos, the victim's mother. The Philippine National Police, alleged to have been responsible for the disappearance, completely denies responsibility and has conducted a smear campaign by accusing the victim of being a member of the New People's Army. Such a desperate effort to justify the disappearance leads to fears for the life of Jonas. There is also widespread concern that the case will become one of the many unresolved cases of enforced disappearances.

Apart from the Burgos case, more recent cases include the still unresolved disappearance of UP students Karen Empeño and Shirlyn Cadapan, as well

as that of Pastor Berlin Guerrero of the United Church of Christ of the Philippines.

FIND's presentation before the same consultative summit show the following data:

1. As of June 2007, there had been 2,023 reported victims of disappearance nationwide (since 1971);
2. The Marcos regime registered the biggest number of reported disappearances (855);
3. Most of the victims come from the basic sectors: farmers (820), workers (254) and youth (149);
4. The AFP registered the highest number of involvement in disappearance cases (1,040) followed by the defunct PC-INP (225) and Marcos' ICHDF (146);
5. Majority of the victims are between 16 and 25 years of age (482) followed by those between 26 and 35 years old (409). The age records of 498 victims were not available;
6. Most of the disappearances occurred in the following regions: Western Visayas (327), Western Mindanao (193), Southern Mindanao (181);
7. The period 1983-1985 (peak of the mass protest against the Marcos dictatorship) recorded the highest

number of disappearances, followed by the period 1987-1989 (during the Aquino Administration's *Total War Policy*);

8. FIND has exhumed 81 remains of victims nationwide.

Thus, from separate presentations of both *Karapatan* and FIND, it is evident that while cases of the past remain unresolved, recent cases continue to occur without letup. Perpetrators enjoy the privilege of impunity that is causing non-resolution of the cases and repetition of the same crimes.

Beyond mere statistics, these cases speak of lives lost, of families broken, of mothers waiting for their disappeared children to come back, of children waiting for their disappeared parents to return, of wives searching without success for their husbands. This crime against humanity violates the most basic of rights and causes emotional and psychological trauma among the surviving kin of the victims.

In response to this alarming phenomenon, the government established the Task Force Usig and later the Melo Commission in order to look into cases of extra-judicial execution and enforced disappearances. Both bodies confirmed these killings and enforced disappearances, implicating General Jovito Palparan Jr. for these crimes. Yet in her 2006 State of the Nation Address, President Arroyo heaped praises on Palparan.

The United Nations Special Rapporteur on Extra-Judicial Killings, Prof. Philip Alston, was invited by the Philippine government to look into cases of extra-judicial killings, which are closely related to enforced disappearances. In many cases, victims first disappeared before they were found dead.

Alton's report to the UN Human Rights Council in March 2007 states:

The impact of my visit, although I have not yet

completed my final report, has been deeply schizophrenic. On the one hand, the President has taken a range of positive initiatives, many of which I list in my preliminary note to the Council. On the other hand, the military and many key officials have buried their collective heads in the sand and announced that business will continue as usual.

More recently, the Secretariat of the UN Working Group on Enforced or Involuntary Disappearances (UNWGEID), in a meeting with the Asian Federation Against Involuntary Disappearances held in Geneva, Switzerland on September 27, 2007, confirmed that the Working Group has made an official request for another visit to the Philippines. Such request is obviously a follow-up of the result of the visit of Professor Alston which confirmed that there are indeed cases of enforced disappearances perpetrated by the military. This request, if accepted by the Philippines, could be crucial to the evaluation of the Philippine Government's performance in the field of human rights as it will be subjected to the Universal Periodic Review by the UN Human Rights Council in April 2008.

In its Resolution 60/251, the General Assembly decided that the Council will, among others, undertake a universal periodic review based on objective and reliable information of the fulfillment by each State of its human rights obligations and commitments in a manner which ensures universality of coverage and equal treatment with respect to all Member-States. The review shall be a cooperative mechanism based on an interactive dialog with the full involvement of the country concerned and with consideration given to its capacity-building needs. Such a mechanism shall complement and not duplicate the work of



AFAD member Daisy Valerio, fourth from left, and other international human rights activists pause for a moment of silence for victims of enforced disappearances all over the world.
Photo: AFAD

treaty bodies.

It will be recalled that in 1991, upon the invitation of the Aquino administration, the UN Working Group on Enforced Disappearances visited the country. Such visit confirmed cases of enforced disappearances both during the Marcos regime and the then incumbent administration of President Corazon Aquino. The following were the recommendations of the UNWGEID to the Philippine government:

1. Sever the national police from the army and put the police under a different cabinet minister in order to reduce the power in the area of maintenance of public order in the hands of one single body;
2. Disband the CAFGUs - as recommended also by the International Labor Organization, the Peace Commission, the Senate Committee on Justice and Human Rights and various NGOs - or at least restrict their deployment to the defensive action under the supervision of the army in which strict discipline should be enforced;
3. Introduce legislation to narrow powers of arrest by strictly circumscribing which category of public officials may arrest civilians for which offences, in case the

Supreme Court had no immediate occasion to review its rulings on warrantless arrests;

4. Introduce legislation that should provide for civil action against military and police personnel for all offenses involving civilians;
5. Prosecute those responsible for disappearances and take severe disciplinary measures against officers who have failed to enforce adequate measures to prevent disappearances;
6. Fight actively against the practices of "red labeling";
7. Establish regional and central registers of arrest in order to facilitate the search for missing persons;
8. Pursue even more vigorously the clarification of disappearances;
9. Initiate a thorough overhaul of both the law and practice of *habeas corpus*; and
10. Protect witnesses.

Sixteen years later, instead of seeing the above recommendations implemented, it is sad to note that cases of the past remain unresolved. Worse, they continue unabated. With the implementation of the Human Security Act of 2007, the country's local anti-terror law, it is feared that the sorry human rights record of the country will only worsen.

The government, therefore,

should seriously consider the UNWGEID's request for a second visit to the country if it is to manifest its political will to resolve this lingering phenomenon.

With the absence of disclosure of what really happened to victims of enforced disappearances and efforts to establish the identity of their perpetrators, truth becomes a hollow byword. Justice remains elusive as no court has made a breakthrough in prosecuting perpetrators. Redress is unreachable as no victim or family of the victim has been indemnified. Reconstruction of the historical memory of the disappeared will not be fully made possible without the attainment of truth, justice, redress and reparation.

A ray of hope

Yet the unused powers of the judiciary enabled the Supreme Court to call for a National Consultative Summit on Extra-Judicial Killings and Enforced Disappearances. A breakthrough in the country's history, it not only institutionalized the issue of extra-judicial killings and enforced disappearances, but came up with concrete recommendations to guarantee solutions.

A couple of months later, on September 25, 2007, the Supreme Court approved the draft Rule on the Writ of Amparo. It provides "a remedy available to any person whose right to life, liberty and security is violated or threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity." To take effect on October 24, 2007, the Rule protects people from extra-judicial execution and enforced disappearances and therefore, gives guarantee for the right to life.

Amidst this dark night of the disappeared, a ray of hope flickers. ■

**AILEEN BACALSO is the Secretary-General of the Asian Federation Against Involuntary Disappearances (AFAD).*



Alamin ang inyong mga

KARAPATAN

Writ of Amparo

MAHIGIT DALAWANG taon na mula nang magsimula ang sunod-sunod na pagdukot at pagpatay sa mga aktibista at mga mamamahayag sa ilalim ng administrasyong Arroyo ngunit hanggang ngayon ay wala pa ring kasong naresolba at wala pa ring napaparusahan.



Hanggang ngayon ay nananatiling nasa panganib ang buhay at seguridad ng mga bokal na tumutuligsa sa mga tiwaling opisyal ng pamahalaan.

Sa gitna ng sitwasyong ito, pinagtibay ng Korte Suprema ang 'writ of amparo' at mga kaukulang alituntunin nito upang bigyan ng dagdag na legal na proteksyon ang mga taong kasalukuyang nilalabag o posibleng malabag ang mga karapatan dahil sa kanilang pampulitikang paniniwala o dahil sa pagsisiwalat ng katotohanan.

Nagsimulang magkabisa ang 'writ of amparo' noong Oktubre 24, taong kasalukuyan.

Ano ang 'writ of amparo'?

Ito ay isang petisyong pwedeng isampa sa korte kapag nilabag, nilalabag, o posibleng malabag ang karapatan sa **buhay, kalayaan, at seguridad** ng isang tao dahil sa ilegal na aksyon o pagpapabaya ng mga opisyal at kawani ng pamahalaan o ng mga pribadong indibidwal o grupo.



Kasama sa pino-proteksyunan ng writ of amparo ang mga kaso ng 'extralegal' na pagpatay at sapilitang pagkawala o pagdukot.

Ibig sabihin, pwede itong gamitin ng isang taong batay sa ilang ebidensya at pangyayari ay naniniwalang may banta sa kanyang buhay, kaligtasan, at

kalayaan mula sa mga tauhan ng gobyerno o kaya ay mula sa mga pribadong indibidwal.

Pwede itong isampa ng mga taong sa tingin nila ay minamanmanan sila, nakatanggap ng 'death threats,' o napag-alamang posible silang ipapatay o ipadukot.

Kung ang indibidwal naman ay nabiktima na ng ganitong mga paglabag, pwede itong isampa ng mga kamag-anak, kaibigan, at mga pribadong organisasyon upang mailabas o maproteksyunan ang biktima.

Sino ang pwedeng magsampa nito?

Ang petisyon ay pwedeng isumite ng mismong biktima o posibleng biktima at kung hindi naman ito possible, pwedeng magsampa (batay sa pagkakasunod-sunod) ay ang:



- Sino ang miyembro ng pamilya, asawa, anak, o mga magulang, ng biktima;
- Mga kamag-anak hanggang sa ika-apat na lebel kung wala ang mga binanggit sa naunang talata;
- Sinumpang mamamayan, organisasyon, asosasyon, o institusyon kung wala nang matagpuang kamag-anak ang biktima



Saan ito pwedeng isampa?

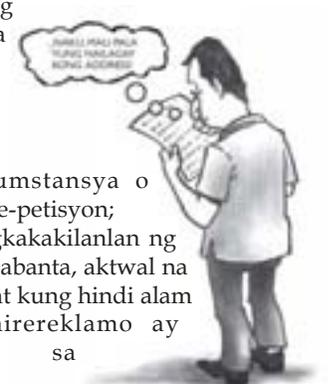
Ang petisyong ito ay pwedeng isampa sa korte anumang araw at anumang oras. Isusumite ito sa Regional Trial Court (RTC) kung saan naganap ang paglabag o anumang elemento nito o kaya naman ay sa Sandiganbayan, Court of Appeals, at sa Korte Suprema.

Ang writ na ito ay pwedeng ipatupad sa anumang bahagi ng Pilipinas.

Walang 'docket fees' o anumang bayaring kailangan para maisampa ang petisyong ito.

Ano dapat ang laman ng petisyon?

- Ang personal na sirkumstansya o pagkakakilanlan ng nagpe-petisyon;
- Pangalan at iba pang pagkakakilanlan ng taong responsable sa pagbabanta, aktwal na paglabag o pagpapabaya at kung hindi alam ang pangalan, ang inirereklamo ay pwedeng tukuyin sa



pamamagitan ng inaakalang yunit, opisina, o grupong kinabibilangan nito;

- k.) Ang karapatan sa buhay, kalayaan, at seguridad na nalabag o posibleng malabag at kung paano nilabag o nanganib ang karapatang ito; kasama ang paglalahad ng mga kaugnay na pangyayari sa pamamagitan ng 'affidavits';
- d.) Kung may naganap na imbestigasyon, ang pangalan, tirahan at iba pang pagkakakilanlan ng mga opisyal na nagsagawa ng pagsisiyasat, ang kondukta at paraan ng pag-iimbestiga at anumang ulat kaugnay ng imbestigasyon;
- e.) Ang mga aksyon at remedyong sinubukan ng nagpepetisyon upang malaman ang kinaroroonan o nangyari sa biktima at ang identidad ng taong responsable sa paglabag, pagbabanta, o pagpapabaya; at
- g.) Ang hihilinging remedyo ay maaaring pangkalahatang kahilingan para sa iba pang makatarungang remedyo.

Pag-isyu ng 'Writ'

Kapag nakita ng korte na may sapat na dahilan upang maglabas ng 'writ' upang maproteksyunan o mabigyang lunas ang paglabag sa mga nabanggit na karapatang pantao, maglalabas ang 'clerk' ng korte o ang mismong hukom ng 'writ' at magtatalaga ito ng opisyal na maghahatid nito sa lahat ng partido sa kaso.



Dapat ding nakasaad sa inisyung 'writ' ang petsa at oras ng paglilitis na dapat gawin nang hindi lamang sa pitong (7) araw pagkatapos ilabas ang nasabing 'writ'.

Kapag natanggap na ng inirereklamo ang 'writ,' meron siyang 72 oras upang magsumite ng sagot sa korteng nag-isyu nito.

Mga Pansamantalang Remedyo

Pagkatapos maisampa ng petisyon at bago ang pinal na desisyon hinggil dito, ang korte o ang huwes ay pwedeng magbigay ng mga sumusunod na pansamantalang remedyo upang mapangalagaan ang kaligtasan ng mga saksi at ng nagpepetisyon:

- a.) *Temporary Protection Order* - pwedeng iutos ng korte na maproteksyunan ang biktima, nagpepetisyon, at mga miyembro ng kanilang pamilya sa isang opisina ng gobyerno o itinalagang pribadong institusyong kayang pangalagaan ang kanilang kaligtasan. Kung ang nagpetisyon ay isang asosasyon o organisasyon, ang proteksyong ito ay pwedeng ibigay sa mga opisyal nito.



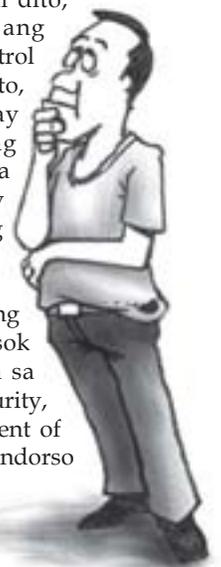
Ang Korte Suprema ang magtatalaga ng mga pribadong institusyong papayagang magbigay ng ganitong proteksyon.

- b.) *Inspection Order*- kapag hiniling ng nagpepetisyon at nakapagdaos ng pagdinig hinggil dito, maaaring ipagutos ng korte ang pagpasok sa isang lupa o ari-arian upang ma-inspeksyon, magalugad, o malitratuhan ito.

Ang mosyon upang mahalughog ang isang lugar ay dapat na may kasamang sinumpaang pagsasalaysay ng mga saksing may personal na kaalaman hinggil sa pagkawala ng biktima.

Halimbawa nito ay ang pag-inspeksyon sa mga kampo at mga 'safehouses' na posibleng pinagdalan sa mga dinukot na indibidwal.

- k.) *Production Order* - kapag hiniling ng nagpepetisyon at nakapagdaos ng pagdinig hinggil dito, pwedeng utusan ng hukuman ang sinumang may hawak o may kontrol sa anumang dokumento, libro, litrato, o anumang nahahawakang bagay maging ito ay nasa anyong elektroniko o 'digital' na naglalaman ng ebidensyang may kinalaman sa petisyong nakasampa.



- d.) *Witness Protection Order* - maaari ring irekomenda ng korte ang pagpasok ng mga saksing may kaugnayan sa petisyon sa Witness Protection, Security, and Benefit Program ng Department of Justice (DOJ). Pwede rin silang i-endorso ng korte sa ibang ahensya o itinalagang pribadong institusyong maaaring magbigay sa kanila ng proteksyon. ■

■ By Sitti Nur-Aina L. Jaji

EVEN WITH the on-going peace negotiations between the government and the Muslim rebels, the security situation in Mindanao is so volatile that even a small incident could trigger an all-out war.

How much more the kidnapping of a foreign priest and the beheadings of soldiers?

Recently, these two incidents led to the unleashing of the military arsenal in Basilan, Mindanao which predictably resulted again in loss of more lives, destruction of property and displacement of thousands of civilians.

The Philippine government also tagged the Abu Sayyaf as a terrorist organization despite allegations that it is a creation of the Philippine military as a paramilitary group.

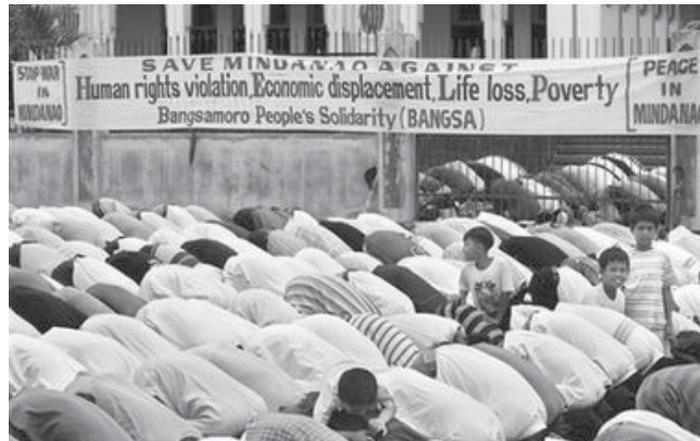


War in Mindanao RENEWED OFFENSIVE, RENEWED COST

The kidnapping

The Philippines once again caught the attention of the international community with the latest kidnapping incident of a foreign national. Fr. Giancarlo Bossi, 57, the parish priest of Payao town, Zamboanga Sibugay was seized on June 10, 2007 while on his way to celebrate mass in Barangay Bulawan in the same municipality. The Italian priest was a member of the Pontifical Institute for Foreign Missions (or Pontificio Instituto Missioni Estere, PIME).

The only difference this time was that a renegade Muslim separatist, not the Abu Sayyaf Group (ASG), admitted to the kidnapping. Also, that it was committed in Zamboanga Sibugay Province and not anywhere in Basilan where previous high profile kidnapping cases were instigated.



An end to war: NCR-based Muslims gather at the Blue Mosque in Taguig City for a prayer rally, August 31, 2007.

Photos: Anak Mindanao website

Rescue operation

With pressure from the international community, Mrs. Arroyo ordered the rescue operations. Military operations ensued in pursuit of the possible perpetrators. This is the usual scenario whenever kidnapping happens in the country.

What was unusual however

was the fact that the military operations were not concentrated in Zamboanga Sibugay Province, despite reports that the abducted priest was being held somewhere within the province. A top police official received a text message disclosing that Fr. Bossi was being kept in Kulasian cave in

Payao, Zamboanga Sibugay. Yet the military operation was highlighted in Basilan Province, even when the League of Provincial Mayors pointed out that the priest had not been sighted in Basilan. One mayor explained that it was difficult to transfer Fr. Bossi due to the inclement weather.

Why insist on Basilan?

Basilan Province, an island-province south of Zamboanga City, is the home turf of the Abu Sayyaf Group (ASG). Set up in the early 1990s, the ASG is the smallest of the Muslim rebel groups in the Philippines, with 400 members. But it is one of the most notorious – if not the most notorious – rebel groups operating in the country. It is blamed for kidnappings, bombings, and beheadings in the Philippines. The US has listed the group as a terrorist organization and says it has links to Al-Qaeda, the primary suspect in the 9/11 attacks in the US.

Immediately after the said

terror strikes, the United States spearheaded a global campaign against terrorism to which the Philippine government, being a close US ally, has faithfully committed its political and military support.

It was also under the auspices of the war on terror that the US government through the Visiting Forces Agreement (VFA) has poured millions of dollars worth of military aid and technical assistance to the Philippine military's counter-insurgency drive against the ASG.

The Philippine government also tagged the Abu Sayyaf as a terrorist organization despite allegations that it is a creation of the Philippine military as a paramilitary group.

July 10 "Ambush"

In what was claimed as an effort to rescue the kidnapped priest, members of the 1st Marine Brigade carried out an "intelligence-driven" operation in Basilan on July 10, 2007. The target was an alleged ASG camp.

The ensuing clash between the military and members of the Bangsamoro Islamic Armed Forces (BIAF) of the Moro Islamic Liberation Front (MILF) in Brgy. Guinanta, Al-Barka, Basilan lasted eight hours. The encounter claimed the lives of five (5) members of the BIAF-MILF and twenty three (23) from the Marine troops. Several others were wounded.

At about 5:00 in the afternoon, a ceasefire was proclaimed. Both forces conducted clearing operations then withdrew from the area of hostilities, bringing along with them their respective wounded and casualties.

But the following day, the MILF found seven (7) dead bodies, all of them beheaded. Six (6) were identified as members of the Marine troops; the seventh was that of a 69-year-old *Imam* (Muslim religious leader) identified as Matarul Hakanul.

The MILF accused the Marines of the Imam's beheading while disclaiming



In search of peace: A prayer rally held at the Blue Mosque, Taguig City, August 31, 2007. Photo: Anak Mindanao website

responsibility for the beheading of the Marines.

This incident raised widespread indignation from different sectors of society especially from politicians and the military and was later publicized as an "ambush" of military troops by the Muslim rebels resulting in the death of 14 marines, ten of which were decapitated.

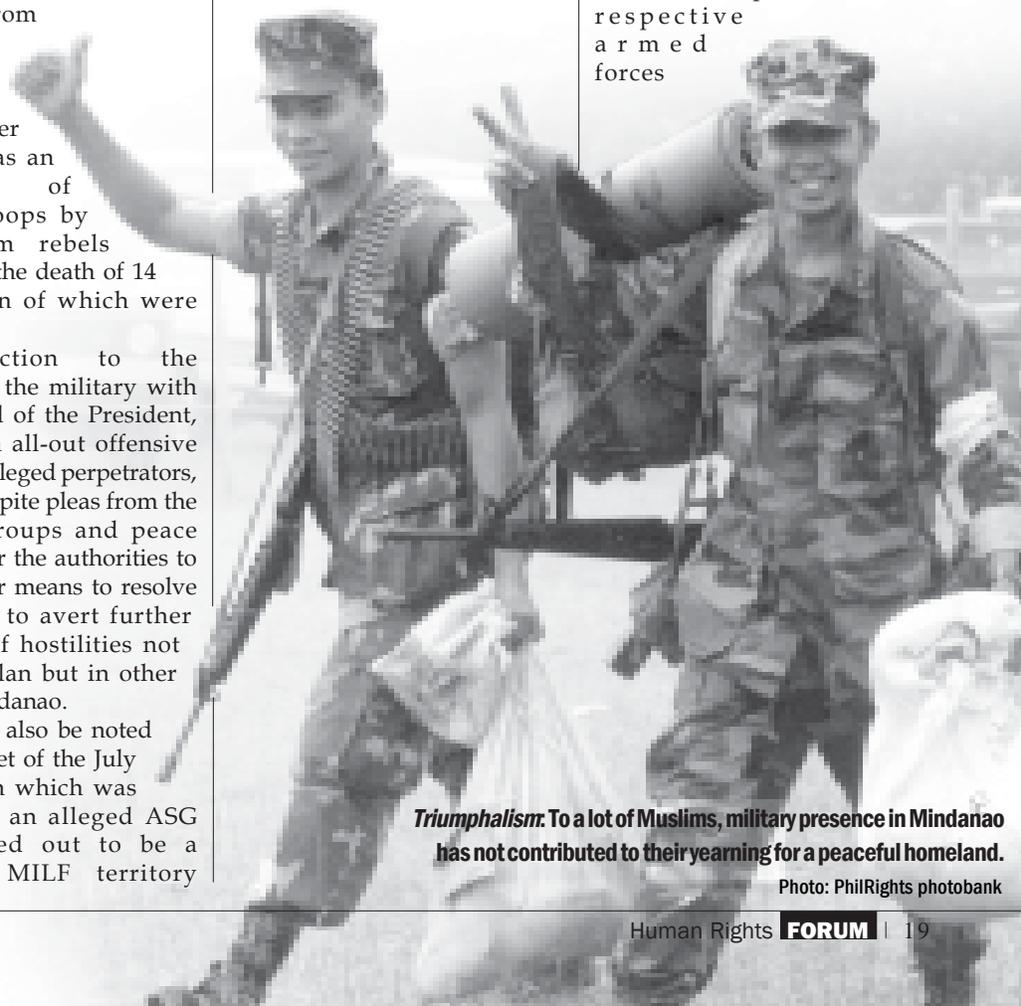
In reaction to the beheadings, the military with the approval of the President, launched an all-out offensive against the alleged perpetrators, the ASG, despite pleas from the religious groups and peace advocates for the authorities to explore other means to resolve the conflict to avert further escalation of hostilities not only in Basilan but in other areas of Mindanao.

It should also be noted that the target of the July 10 operation which was supposedly an alleged ASG camp turned out to be a legitimate MILF territory

recognized by the Government of the Republic of the Philippines (GRP) under its on-going peace talks with the MILF.

Ceasefire agreement

Through the course of the on-going three-year peace process between the MILF and the GRP, both parties and their respective armed forces



Triumphalism: To a lot of Muslims, military presence in Mindanao has not contributed to their yearning for a peaceful homeland.

Photo: PhilRights photobank

have agreed to and adopted the Ground Rules for a Ceasefire Agreement. Under this protocol, AFP troop movements in MILF areas require prior coordination with the rebels and vice-versa.

Evidently, the Ceasefire Agreement was not honored when members of the 1st Marine Brigade conducted the July 10 operation in a recognized MILF area without the required prior coordination.

However, media and military reports on the July 10 incident failed to mention this violation of the ceasefire agreement but instead focused on the beheadings of the marines. This could be explained by the fact that the press was more preoccupied with the sensational aspect of the event and the military was too eager to generate negative publicity against the rebels.

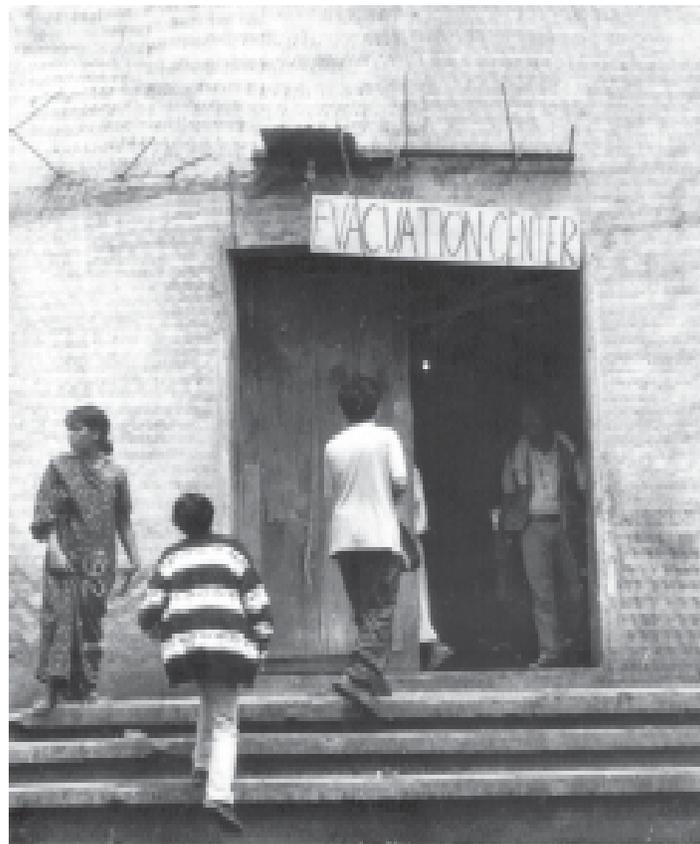
The media attention on the beheadings also overshadowed the obvious conclusion that the July 10 operations which was supposedly an "intelligence-driven" rescue attempt for Fr. Bossi ended up as a disaster from all perspectives.

Clearly, the costly operation which was paid for with human lives on the sides of both the soldiers and the rebels, did not result in the freedom of Fr. Bossi. Neither did it pinpoint the priest's whereabouts. Its only achievement was to undermine the on-going peace negotiations that have been painstakingly built not only by the government and the MILF but also by the people belonging to different peace movements in Mindanao.

Fr. Bossi's release

Eventually, Fr. Bossi was freed unharmed in Lanao del Norte on July 19, 2007. It was indeed a timely occasion for Mrs. Arroyo's scheduled travel abroad on the same week. Hence, it was no surprise that she was lavished with praises and positive feedback from the international community during that time.

Meanwhile, the July 10 beheading led to the formation



Evacuation centers have become home to a lot of Muslim families trapped in the midst of war in Mindanao.

Photo: PhilRights photobank

of a joint GRP and MILF fact-finding mission. In the end, the joint panel concluded that the ASG was responsible for the grisly crime.

Again, it was a timely coincidence that while the Arroyo administration gains international recognition for the safe release of Fr. Bossi, the ASG gained further notoriety for the beheadings of the ten marines.

Obviously, the Philippine government needed to highlight the role of the ASG before the international community to sustain its popularity among the countries that comprise the anti-terror "coalition of the willing," especially the United States. The Abu Sayyaf is the Philippine's ace up its sleeves, its most valuable asset in cementing its ties with the US that translates to financial assistance and military support.

In fact, aside from the millions of dollars of military aid and technical assistance for the counterinsurgency against the Abu Sayyaf through the

VFA, the US government has given the biggest reward (Php 450 million) to Filipino informants that led to the killing of ASG chief Khadaffy Janjalani.

Moreover, the US troops stationed in Sulu are giving assistance to Filipino troops that are tracking down the Abu Sayyaf. The Americans had been training Filipino soldiers in the fight against terrorism since 2002. A US official claims that the exchange of military expertise between the two countries has hastened and intensified the campaign against terrorism in Sulu.

Renewed offensive

Based on the MILF-GRP joint panel findings on the July 10 beheadings, the government launched a series of military offensives against the indicted perpetrators, the ASG and raided a camp of the group. From mid-July to August this year, nine (9) battalions were deployed in Basilan alone to hunt 80 ASG fighters.

These military operations

resulted in the displacement of 2,295 families from eight (8) municipalities in Basilan.

As usual, the ensuing conflict left a trail not only of violence and bloodshed but massive human rights violations affecting the people of Basilan and Sulu.

Reckoning the cost

Right to Security

Valuing one's right to be secured of his/ her person, the Universal Declaration of Human Rights (UDHR) pronounced under Art. III, "Everyone has the right to life, liberty and security of person."

Human security means, first, safety from chronic threats such as hunger, disease and repression. And second, protection from sudden and hurtful disruptions in patterns of daily life (whether in homes, jobs, communities). Loss of human security can be human-made (wrong policy choices), stem from the forces of nature, or both.

The all-out war policy of the government in Basilan and Sulu has caused human insecurity among the populace, sowing fear and threats of oppression from State actors:

"...soldiers were firing indiscriminately although they knew where the ASG were situated. The soldiers are only tough with the civilians. Earlier at 2:00 in the morning (August 17), they took with them 9 women, 8 men and some children from Tanjung. Until now, they are still detained at 104th brigade." (Aug 18, 2007)

"Some members of the AFP are conducting house to house search in Mubarakat, Isabela City, Basilan tonight. This is a brazen violation. Or is this another form of legalized anti-terror campaign?" (Aug 19, 2007)

"Full military operations. They capture any suspected rebels, many now detained in the brigade. IDPs are multiplying.

Cong. Jikiri in Sulu told the MNLF not to fight and leave the ASG to roam the jungles to hide. If MNLF people will not fight, our people will be victims: captured, robbed, our houses burned, and perhaps our women raped.” (Aug 19, 2007)¹

Right of Abode

The freedom to choose the place of residence is a duly accorded right of every person enshrined in different human rights instruments, both at the national and international level.

The right to freedom of movement and residence within the borders of each state has been recognized under Article 13 of the Universal Declaration of Human Rights (UDHR).

In the same manner, the 1987 Philippine Constitution provides that the liberty of abode and of changing the same within the limits prescribed by law shall not be impaired except upon lawful order of the court (Art III, Sect 6 thereof).

Nonetheless, alleged encounters between the military and the ASG have dramatically increased the number of internally displaced persons (IDP) in the area. Several alleged encounters including two incidents on August 7 and 8 resulted in the forced eviction of 14,888 persons or individuals or 2,934 families from fifteen (15) barangays in four (4) municipalities.

Right to Education

According to the United Nations (UN), education is crucial for the holistic development of every person and instrumental in realizing their other rights.

Article 26 of the UDHR states that “Everyone has the right to education... Elementary education shall be compulsory...”

Moreover, Article 13 of the International Convention on Economic, Social and Cultural Rights (ICESCR) further stresses the (1) recognition of the right to education and that (2,a) Primary education shall be



Anak Mindanao Party-list leaders speak at a prayer rally for peace in their homeland, August 31, 2007. (Photo: Anak Mindanao website)

compulsory, free and available to all.

At the national level, Article XIV of the Philippine Constitution states, “The State shall protect and promote the right of all citizens to quality education at all levels and shall take appropriate steps to make such education accessible.”

But during the military operations in Basilan and Sulu, eleven (11) elementary schools were forced to shut down. Aside from this, public schools are usually converted as evacuation centers during armed conflicts resulting in suspension of classes for indefinite periods of time.

Right to Food

As the number of innocent civilians affected by the hostilities in Basilan and Sulu grew, different sectors of society appealed to the Arroyo government to order a cessation of military operations.

Instead, PGMA went on to pronounce an all-out war in Basilan and Sulu and ordered the military to continue pursuing the ASG elements responsible for the beheading of the marines.

Along with the declaration of a news blackout in Basilan, a food blockade was also enforced by the military in some localities in the province.

Right to Religion

Of equal importance is the

The Philippine government needed to highlight the role of the ASG before the international community to sustain its popularity among the countries that comprise the anti-terror “coalition of the willing.”

right to religion which the UDHR affirms under Article 18: “Everyone has the right to freedom of thought, conscience and religion...this right includes the right to manifest his religion or teaching, practice, worship and observance”

Similarly, the Philippine Constitution recognizes under Article III, Section 5 “The free exercise and enjoyment of religious profession and worship, without discrimination shall forever be allowed...”

In its campaign against the New People’s Army (NPA), it has been the practice of the government to declare ceasefires during Christian holidays especially during Christmas season.

The operation against the ASG in Basilan and Sulu was conducted during the Islamic observance of Ramadan. As quoted in the news, Defense Sec. Teodoro said, “Military operations will still be mounted against Abu Sayyaf bandits in Sulu and Basilan even during the Muslim holy month of Ramadan which begins on Sept 15”.

This blatant disregard of one of the main pillars of Islam (fasting during Ramadan) showed the cultural insensitivity of the government and a clear violation of the Muslim peoples’ right to religion. The government should be reminded that this right is a composite of the right to one’s belief and the exercise of such belief.

In the final analysis, the UN pointed out that the two major components of human security are freedom from fear and freedom from want:

“The battle of peace has to be fought on two fronts. The first is the security front where victory spells freedom from fear. The second is the economic and social fronts, where victory means freedom from want. Only victory on both fronts can ensure the world of an enduring peace...No provisions that can be written into Charter will enable the Security Council to make the world secure from war if men and women have no security in their homes and their jobs.” (1945, US Secretary of State).³ ■

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Moro Human Rights Center (MHRC) in Basilan

¹ Testimonies of the paralegal volunteers of the Philippine Alliance of Human Rights Advocates (PAHRA) in ZAMBASULTA area in Mindanao.

³ Overview, Philippine Human Development Report 2005

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NUR L. JAJI, coordinates the education bureau of the Philippine Alliance of Human Rights Advocates (PAHRA).

ANG BARIKADA SA PACQUET, KASIBU, NUEVA VIZCAYA

Isang Kwento ng Pakikibaka Laban sa Malakihang Pagmimina

■ Ni EMY TAPIRU

PAANO KUNG tutol ang mga tao sa komunidad sa kaunlarang itinatulak ng pamahalaan?

Paano kung ang tingin nila rito ay hindi kaunlaran kundi magiging mitsa ng pagkasira ng kanilang kabuhayan at kapaligiran? Hanggang saan nila ipaglalaman ang kanilang karapatan?

Noong Agosto 29, 2007, Miyerkules, ilang mga katutubong lalaki at babae ng Kasibu, Nueva Vizcaya ang nasaktan nang piling gibain ng mga tauhan ng Oxiana Philippines Inc. (OPI), isang Australyanong kumpanya ng pagmimina, ang dalawang buwan nang nakatayong barikada ng mga taga-Kasibu upang mapigil ang operasyon



ng naturang kumpanya sa kanilang komunidad.

Naiwasan lamang ang pagputok ng mas matinding karahasan sa pagitan ng 1,000 residente at mga tauhan ng OPI at mga miyembro ng Citizens' Armed Forces Geographical Unit (CAFGU) na inupahan ng kumpanya nang mamagitan ang mahigit isandaang tauhan ng Philippine National Police (PNP).

Maliwanag ang mensahe ng mga taga-Kasibu sa mga nais magmina sa kanilang lugar, ayaw lamang makinig ng mga kumpanya at ng pamahalaan.

(JM VILLERO)





Determinado ang mga taga-Kasibung huwag padaanin ang mga kagamitang pangmina ng Oxiana Philippines, Inc (OPI). Sumuportarin sa mga residente ang mga non-government organizations (NGOs) at mga taong simbahan tulad ng madreng ito.

Photo: ALYANSA TIGIL MUNA (ATM)



Upang mabawasan ang tensyon at mapigil ang panibagong karahasan, ipinagutos ni Lito Atienza, kalihim ng Department of Environment and Natural Resources (DENR) na maupo sa isang dayalogo ang lahat ng partidong sangkot sa problema at pansamantala ay tigilan muna ng Oxiana ang pagpasok ng mga kagamitan sa pagmimina sa nasabing lugar.

Kaso laban sa mga taga-Kasibu

Bago pa ang insidenteng ito, dalawang beses nang nabigong magpasok ang OPI ng mga *heavy equipment* at iba pang mga kagamitan para sa nakatakdang paghahanap at pagmimina nito ng ginto at *copper* sa mga barangay ng Pao, Kakidugen, at Dine sa bayan ng Kasibu.

Dahil sa pagharang ng mga taga-Kasibu sa pagpasok ng Oxiana sa *exploration site*, idinemanda ng naturang kumpanya sina Kapitan Mariano Maddela ng Barangay Pao, Kapitan Alejo Tuguinay ng Barangay Kakiduguen, Kapitan Manuel Binuya ng Dine, Felimon Blanco ng Pacquet at 18 pang mga lider ng Kasibu Inter-tribal Response for Ecological Development (KIRED) na siyang nangunguna sa paglaban sa planong pagmimina.

Noong Hulyo 23, dahil sa kasong isinampa ng OPI sa pamamagitan ng kinatawan nitong si Lourdes Dolinen, naglabas ng 20-day temporary restraining order (TRO) si Judge Jose Godofredo Naui laban sa mga nasabing opisyal ng Kasibu at mga lider ng KIRED at binawalan silang lumapit man lamang sa barikada.

Makalipas ang mahigit dalawang linggo, Agosto 9, naglabas naman ang korte ng *preliminary injunction* laban sa mga lider ng Kasibu at ipinagutos ang pag-alis sa barikadang pumipigil sa pagpasok ng OPI sa *exploration site*.

Hindi pinanghinaan ng loob ang mga taga-KIRED sa kabila ng mga desisyong ito ng korte bagkus ay lalo pa nilang ipinakita ang kanilang suporta



Gumamit ng mga bayarang armadong tauhan ang Oxiana sa kanilang pagpipilit na makapasok sa *exploration site*. Photo: ALYANSA TIGIL MUNA (ATM)

sa kanilang mga lider sa pamamagitan ng pagsama sa kanila tuwing may pagdinig sa kaso.

Nito lamang Oktubre ng taong kasalukuyan ay ibinasura ang kasong *injunction* laban sa mga pinuno ng KIRED sapagkat napatunayang wala nang legal na personalidad si Dolinen para maghabla dahil nabili na ng Royalco Resources Limited (Royalco), isa ring Australyanong kumpanya, ang Oxiana.

Permit ng Oxiana / Royalco

Iginigiit ng mga taga-Kasibung tutol sa pagmimina ng Oxiana na hindi dapat nabigyan ng pahintulot ang nasabing kumpanya dahil hindi nakasama sa mga isinagawang konsultasyon ang ibang tribu sa Kasibu at hindi rin lahat ng mga Bugkalot sa lugar ay nahingan

ng opinyon hinggil sa planong pagmimina.

Ang *exploration site* ay nasa loob ng *ancestral domain* ng mga Bugkalot kaya kailangan ng pagpayag ng mga katutubo sa anyo ng Free, Prior, and Informed Consent (FPIC) bago makapagsagawa ng anumang proyektong pangkaunlaran dito.

Unang nabigyan ng *permit* ang OPI noon pang Hunyo 9, 2003 (EP #11-000014) at may bisa sa loob ng dalawang taon. Agad na nagpetisyon sa National Commission on Indigenous Peoples (NCIP) ang mga tao sa Kasibu sa pangunguna nina kapitan Maddela at Tuguinay at kinwestiyon ang nasabing permit sapagkat hindi naman dumaan sa proseso ng FPIC ang Oxiana.

Sa bisa ng mga ebidensyang iniharap ng mga tao, naglabas ng *permanent injunction order* ang



Nakipagpulong ang mga taga-KIRED sa mga kinatawan ng Alyansa Tigil Mina (ATM) upang mapalakas ang kampanya. JM VILLERO

NCIP laban sa OPI at pansamantalang natahimik ang mga usap-usapan hinggil sa balak na eksplorasyon ng Oxiana.

Ngunit makalipas lamang ang ilang panahon, inimitahan ng NCIP sila Maddela at Tuguinay upang sumama sa paghahanda ng *financial workplan* upang makapagsagawa ng FPIC sa mga maaapektuhan ng pagmimina ng OPI. Tatlong beses nagpunta sa opisina ng NCIP ang mga kapitan ng Kasibu kasama ang maraming mga residente upang ipaabot sa nasabing ahensya na tutol sila sa pagsasagawa ng FPIC dahil una, meron nang *permanent injunction* laban sa OPI at pangalawa, maraming ginagawang panlilinlang ang kumpanya para makuha ang pagpayag ng mga tao.

Sa kabila nito, nagpumilit pa rin ang Oxiana at nagbigay ng pondo para sa pagsasagawa ng mga konsultasyon bilang bahagi ng FPIC. Naganap ang tatlong pulong noong Abril, 2007 sa Sitio Singkang, Kakiduguen kung saan maraming mga residente ang pabor sa pagmimina.

Kaya noong Hunyo 19, 2007, na-isyuhan ng FPIC *certificate of compliance* ang Oxiana batay sa iniharap nitong *Memorandum of Agreement (MOA)* na may petsang Abril 25, 2007, sa pagitan ng kumpanya at mga Bugkalot na kinatawan nila Dante Taguem, Sintol Camma at Roberto Cabarrouis.

Noon ding huling bahagi ng Hunyo ng taong kasalukuyan, dahil daw may mga panahong hindi nagamit ang Oxiana sa hawak nitong *permit*, hiniling nitong *i-extend* ng Mines and Geosciences Bureau (MGB) ang permiso nitong napasao na noon pang Hunyo 9, 2005. Pumayag si MGB regional director Jerry Mangaoang at nagbigay ng dagdag na dalawampung (20) buwan, mula Hunyo 28, 2007 hanggang Pebrero 27, 2009, para sa eksplorasyon ng OPI.

Sabalit ang probisyong "availability of unused time credit" ay wala sa *implementing rules and regulations* ng



Pansumandaling nakapahinga ang mga taga-Kasibu nang lutos ni Lito Atienza, kalihim ng DENR na itigil muna ng Oxiana ang pagtatangka nitong pumasok sa lugar na pagmiminahan. Photo: ALYANSA TIGIL MUNA (ATM)



JAY AZUCENA

Philippine Mining Act of 1995.

Sapagkat minorya lamang ang nakonsulta at naitsa-pwera ang mga Ibaloi, Ifugao, Kalanguya, at iba pang mga tribung migrante, nagdesisyon ang KIREED na itayo ang barikada sapagkat ito na lamang ang nakikita nilang paraan upang mapigil ang napipintong pagmimina sa kanilang komunidad.

Kaya noong Hulyo 2, unang inilagay ang barikada sa *barangay road* ng Paquet, ang barangay na madadaanan bago marating sa Pao at Kakidugen. Palitan sa pagtao sa barikada ang mga residente ng walong barangay na saklaw ng KIREED. Umisip din sila ng mga senyales at porma ng komunikasyon para sa iba't-ibang sitwasyon lalo na kung may paakyat na mga sasakyang may dalang mga materyales para sa pagmimina.

Makalipas ang isang linggo, inilipat sa pribadong lupain ni Donie Dugay at Armando

Guives ang barikada sapagkat kung ito ay nasa *public road*, malamang na makasuhan ng *obstruction* ang mga nagbabarikada.

Ganunpaman, hinayaan pa rin ng mga taong dumaan ang mga empleyado ng Oxiana basta wala silang dalang mga kagamitan at materyales ngunit palihim pa ring nagpuslit ng maliliit na gamit ang mga tauhan ng kumpanya.

Determinasyon at pagkakaisa

Noong tinanong ang mga taga-KIREED na nagbabarikada kung hanggang saan nila kayang dalhin ang laban sa malakihang pagmimina, walang pag-aalinlangan ang kanilang sagot, "habang meron kaming hininga."

Ilang araw lamang matapos nila itong sambitin, naganap nga ang bayolenteng insidente noong Agosto 29 at pinangat-tawanan nila ang kanilang binitawang salita.

Noong isang libong residente ng Kasibu ang naupo sa kalsadang dadaanan ng mga sasakyang may dala ng mga kagamitan sa pagmimina, handang isakripisyo ang mga sarili, huwag lamang matuloy ang eksplorasyon ng Oxiana.

Noong araw ding iyon, pinatunayan ng mga taga-Kasibung mas makapangyarihan ang mga

mamamayang nagkaisang ipaglaban ang kanilang karapatan kaysa anumang batas, desisyon ng korte, programa ng pamahalaan at maging karahasan mula sa mga makapangyarihan.

Sa ngayon ay patuloy na nilalabanan ng mga taga-KIREED ang pagpasok ng malakihang pagmimina sa pamamagitan ng pagdulog sa iba't-ibang opisina at institusyon ng pamahalaan at pag-iikot sa mga karatig na barangay at bayan upang ipaalam sa mga kababayan nila ang masamang epekto ng mina.

Sabi nga ng isang lider nila, "kung hindi namin ito gagawin, sayang naman ang pinaghirapan naming pagbabarikada sa Pacquet."

*Si **EMY TAPIRU** ay local coordinator ng Philippine Human Rights Information Center (PhilRights) sa Nueva Vizcaya. Nagtrabaho rin siya sa Philippine Rural Reconstruction Movement (PRRM-Nueva Vizcaya) at sa Social Action Center ng nasabing probinsya.

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Whether the commitment to CSR is authentic or token needs to be probed.

Among other factors, the 1996 Marcopper incident in Marinduque almost signed the obituary of Philippine mining industry. Communities and civil society demanded accountability from the company for destroying the environment, causing physical harm and demolishing livelihoods. The entire industry suffered from the bad press. No public relations and reputation management gimmick could undo the damage. Mining operations decelerated.

The Supreme Court decision declaring the constitutionality of contested provisions in the Mining Act of 1995 resurrected

CORPORATE SOCIAL RESPONSIBILITY AND THE MINING INDUSTRY

Ingraining people's participation in mining communities through CSR

■ By **ROEL A. ANDAG**

Recapturing glory

IN THE early '80s, there were 58 mines in the Philippines, accounting for US\$1.2 billion in mineral export revenues. In 2004, there were only 16 active mines in the country, with mineral export revenues lower than US\$500 million.



Photos: Sibuyan ISLE, Inc.

the industry. Prior to the decision promulgated in January 2004, newspaper readers were bombarded with teasers heralding a glittering comeback.

Catch-words such as "new breed of mining firms," "paradigm shift," "sustainable mining," "responsible mining," "environmentally sound mining practices" and "ecology-conscious mining regime" peppered press releases.

With mineral deposits valued anywhere from US\$90.8 billion (identified mine deposits) to US\$965 billion (including yet unidentified mine deposits), the Philippines could easily become the 5th mining power in the world: globally 3rd in gold, 4th in copper, 5th in nickel, 6th in chromite.

Fully operational, the mining industry is said to be the only growth engine that will help government achieve at

least 7% annual economic growth rate. It is often reported that it is only at this rate of economic growth that the country will be able to significantly combat poverty. Hence, mining has the prospect of obliterating poverty – at least according to the government. Foreign direct investments will flow in, direct and downstream jobs will be created, taxes and royalties will be paid. From its deathbed, the industry is poised to spring to a glorious rebirth.

CSR: deodorant or development strategy?

There are birthing pains. Opposition to mining continues. A politically sensitive industry with a smeared reputation, no matter how heavily it invests in public relations, will not be able to completely silence its critics. It has to prove its commitment to a concept that the industry may find anathema – sustainable development.

In the past, the sole motivation was to profit from operations. Today, a mining company contends with the pressures of satisfying its investors by sustaining and accelerating profit in the face of finite natural resources, maintaining industrial peace by ensuring job satisfaction, and helping address the socio-economic needs of the communities where they operate. It is the third that can prove the thorniest of concerns. Locals benefit from mass media and the presence of civil society organizations whose educative effects empower the community, catalyzing them to become health and environment advocates.

Despite their poverty, people in mining communities have been awakened by realities so as not to compromise their integrity and that of their environment. For a mining company intending to commence operations, free and prior informed consent, as provided for in the Mining Act, can be difficult to obtain. For a company with existing operations, the community's continued approval is vital.



Photo: Sibuyan ISLE, Inc.

It is in this context of heightened scrutiny and acute environmental awareness that mining companies acknowledge the relevance of corporate social responsibility (CSR). As evidenced in corporate visions and annual reports, mining companies have embraced CSR. Whether the commitment is authentic or token needs to be probed. It is also essential to differentiate CSR from philanthropy.

Definitions of CSR abound. The prevailing concept is that CSR is a corporation's voluntary action to ensure the welfare of its stakeholders, especially that of the community where it operates. In the words of the World Summit on Sustainable Development, CSR seeks "to minimize the negative and maximize the positive impacts of business on sustainable development."

Community-company partnership

Shortly after the Mining Act was upheld, former president Fidel Ramos, under whose administration the law was passed, reminded industry stalwarts: "The Supreme Court has given the industry a fresh legal license. But only the local communities where mining companies operate can validate your 'social license.'" Ramos added that the mining industry

can give flesh to people empowerment by involving the locals in decision-making via mandatory consultation and monitoring.

The operative word is "mandatory" and CSR stresses "voluntary." Surely, people's participation – where people are closely involved in the economic, social, cultural and political processes that affect their lives – has a place in CSR. People's participation is an essential element of sustainable development.

CSR initiatives do not follow cookie-cutter approaches. Companies perhaps exchange notes on best practices but there is no leitmotif. At this point, there is neither global nor national CSR standard particularly for application by extractive industries. While promoting CSR innovations on the one hand, this lack of standards makes company-to-company analysis and industry generalizations difficult. Individualized approaches however bear a commonality – the attempt to engage stakeholders. It is only through genuine people's participation that the community can reap the benefits of CSR.

Owing to the voluntary nature of CSR, people's participation may be more difficult to institutionalize in comparison with people's

participation that is mandated by law. It is therefore important to determine mandated versus proactive people's participation. The latter plays a role in CSR.

In assessing levels of people's participation in CSR, the model shown in page 27 is proposed.

In **Level 1 (Information)**, the company implements a CSR initiative because it is the "in thing" to do. The purpose of the program is for branding and to obtain peer approval. Through a public service announcement, people in the community are informed about the CSR program. No prior consultation with the locals is made.

In **Level 2 (Consultation)**, the company calls in the community's key opinion leaders to seek their views about a proposed CSR project. The proposed project is pre-designed by the company, ready for implementation. Done merely as a token gesture, the objective of the consultation with the community leaders is to let word-of-mouth spread the information about the prefabricated CSR project, making it appear that the company cares for community welfare. At best, CSR initiatives hatched at Level 1 and 2 stages are one-shot engagements.

Level 3 (Deliberation) has the elements of Level 2: the company presents a predetermined CSR program based on predetermined community issues. The difference is that people's opinions are valued and are accommodated before the CSR program is implemented. Here, the attendance remains exclusive to company representatives and community leaders.

In **Level 4 (Decision-making)** the community presides at the CSR's agenda table. The company takes on the role of a learner. It listens to the unfettered flow of ideas based on social realities prevailing in the community. Participation is broadened to include representatives of all sectors of the community, if not everyone

of legal age. The community determines what CSR program is best suited to its situation.

The other role of the company is that of resource partner. It has the financial and technical capability to support the CSR program. Implementation becomes a shared responsibility of the company and the community. Both parties have clear accountabilities.

Level 5 (Evaluation) is the logical progression of Level 4. People are involved at every step of the implementation process. They are equipped with tools that they can use in assessing the progress of the program. Monitoring is continually conducted and evaluations are timed at regular intervals. Company and community representatives are partners ensuring that the program fulfills its identified objectives and is meeting its targets. Feedback is then fully integrated in fine-tuning the program.

The sense of ownership inculcated in Levels 4 and 5 helps ensure the sustainability of the CSR program.

The 1% principle and disabusing CSR

Its voluntary nature makes CSR an experimental tool – an open workshop of innovation that is also susceptible to misuse and abuse. CSR should never be used as a fig leaf to cover anomalies.

For CSR in the extractive industries to be successful, it has to:

- Go hand in hand with corporate accountability, meaning the company complies with what laws demand.
- Adhere to global CSR instruments and standards.
- Be supported by people of the company at all levels and backed by adequate budget.
- Institutionalize dialogue between the company and the community where needs and concerns are discussed.
- Introduce high-impact long-term solutions, not stopgap measures aimed at window-dressing for PR

and to mute criticism.

- Avoid exploiting the vulnerabilities of community leaders, whether official or tribal, especially in poor communities that lack infrastructure and social services.
- Report its processes and results in a way that undergoes independent verification that validates claims, especially when environmental integrity and human rights are at stake.
- Communicate openly and objectively in a culturally-sensitive manner. Company websites have to be resorted to only as secondary reporting channels because they are inaccessible to local communities.
- Deter corruption by transparently reporting to the community its profits and taxes due to the local and national governments.
- Promote unity in the community, not polarization.

as one of the pillars propping up the launching pad of the mining industry's second coming. The potentials of mining are staggering. Mining companies will make a substantial difference in the lives of poor communities if they will earmark to CSR programs even just one percent (1%) of income before taxes. At the same time, as the mining industry uses CSR as a PR tool, communities can likewise leverage CSR as a blue chip in bargaining for just benefits and redress for past wrongs.

At its current valuation of US\$90.8 billion to US\$965 billion, local communities can benefit greatly from this windfall – but only if the silos hindering people's participation are torn down to give way to authentic CSR. ■

(The author consults for a Fortune 500 company and other clients. This article reflects his personal opinion. Feedback at r_andag@yahoo.com.)

It is not at all bad to use CSR

LEVELS OF PEOPLE'S PARTICIPATION IN CSR (ANDAG)

LEVEL 1 INFORMATION

The emphasis is on information provision. No actual people's participation takes place.

LEVEL 2 CONSULTATION

People's views on predetermined CSR initiatives are solicited. People's participation remains artificial, as there is no assurance that opinions they submit will be factored into decision-making.

LEVEL 3 DELIBERATION

The company proactively pursues people's participation. This level takes an educative approach in encouraging and popularizing participation. With the main objective of achieving consensus on specified CSR initiatives, people are given the opportunity to deliberate on explicitly expressed issues and options based on evidence. This is the first level where CSR decision-making process becomes truly permeable as it acknowledges citizens' opinions and assures that input will be used in shaping decisions.

LEVEL 4 DECISIONMAKING

People are allowed to conceptualize and propose CSR programs/projects based on their own needs and priorities. The company asks people what these needs and priorities are prior to embarking on particular courses of action. In effect, citizens are given the opportunity to set the CSR agenda.

LEVEL 5 EVALUATION

People are able to assess program/project outcomes. Enables them to investigate, based on available data, the impact of certain CSR initiatives vis-à-vis identified targets. The aim is to generate further input for project/program refinement.

Sibuyan Island: PEOPLE'S RESISTANCE TO PLUNDER ENDS IN DEATH



Town Councilor Armin R. Marin

■ By RODNE GALICHA

IT STARTED as a peaceful picket of anti-mining advocates in Sitio Olango, Brgy. España, San Fernando, Sibuyan Island. But by mid-morning of October 3, 2007, an environmentalist town councilor was gunned down by an employee of Sibuyan Nickel Properties Development Corporation (SNPDC).

The struggle against the pillage of Sibuyan Island continues, despite the aggressive promotion of mining by the Arroyo administration.

during the negotiations, between the picketers and representatives of the mining company, when several witnesses saw Kingo with a gun.

The perpetrator fled from the crime scene with the help of security guards employed by the mining firm. The following day, he turned himself in at the provincial office of the Philippine National Police. Another suspect, Lea Ladica, was released by the police. According to eyewitnesses, Ladica, the information officer of SNPDC, was also armed during the picket. (Analysis showed that two shots were fired from the .38 caliber used by Kingo. Witnesses however say that they heard three gunshots.)

Marin had been a staunch anti-mining advocate even before he was elected councilor. He was a member of Sibuyan Aton Manggad (SAM), which is now the Sibuyan Island Sentinels League for the Environment (Sibuyan ISLE) Inc., and the Sibuyanons Against Mining movement, an affiliate of the national anti-mining alliance Alyansa Tigil Mina (ATM). He constantly opposed mining operations and applications in Sibuyan Island. His death is a big blow to the environmental movement in

Martyred advocate

Councilor Armin R. Marin, 42, was shot in the head by Mario Kingo in front of hundreds of anti-mining picketers at 10:30 AM. Marin died while he was being rushed to the hospital.

He is the 23rd environmental activist to be killed under the Arroyo administration.

The October 3 picket was in opposition to the mining activities being set by Filipinas Top Rock Mines and to the off-take agreement of BHP Billiton with SNPDC and Pelican Resources Ltd of Australia. The picketers were also protesting the Department of Environment and Natural Resources, which had approved the cutting of 69,709 trees in the area. It was



Environmentalists and anti-mining advocates protesting outside the DENR office, October 27, 2007.

Photo: ALYANSA TIGIL MUNA (ATM)

Sibuyan. But it will not scare the anti-mining advocates in the island. In fact, his death has only strengthened the people's resolve to keep the island of Sibuyan from the rapacity of large-scale mining firms.

"We will not give up," vowed one of the anti-mining leaders, Benhur Macato. According to Macato, a retired army major, "somebody had already shed blood. We must not fail Armin; he is a martyr and hero."

Bishop Jose Corazon Talaoc of the Diocese of Romblon, in exhorting the people to stand fast on their advocacy, said that "The cry of the blood of our brother (Armin) is calling us to pray fervently that no further death and injuries happen as we continue the struggle for the betterment of our people."

Marin's death has not been for naught. For one, the media attention that resulted from the killing has brought national and even international attention to the anti-mining struggle in Sibuyan. At least two senators expressed concern over the killing. Sen. Loren Legarda has expressed support for the suspension of mining activities in Sibuyan, and Sen. Francis Pangilinan condemned what he called a "brazen and treacherous act."

The DENR, for its part, suspended the cutting of trees in the island. The special permit to cut trees was approved by then-Secretary Angelo Reyes on July 27, 2007, shortly before he was transferred to the Department of Energy. The DENR however said it cannot cancel the special cutting permit.

Popular opposition

Mining in Sibuyan Island has always been opposed by the majority of its inhabitants.

On September 2, 2006, an island-wide caravan rally was held to protest the start of the drilling and exploration activities in Brgys. Taclobo and España. The drilling/exploration had been approved by the provincial government, through small-scale mining



Anti-mining activists protesting during BHP Billiton's Annual General Assembly in London, October 26, 2007.
Photo: Sibuyan ISLE, Inc.

permits issued to Philippine, Canadian and Australian large-scale mining companies. Some 8,000 anti-mining advocates from Sibuyan's three municipalities (San Fernando, Magdiwang and Cajidiocan), as well as advocates from Romblon and neighboring provinces, marched to the mining sites in the said barangays to express their opposition to the destruction and pollution of their small island.

Opposition to mining is not only confined among the residents of Sibuyan, but also by those who are already overseas-

based. The board of directors of the Chicago, USA based Romblon Discussion List - Cultural, Livelihood and Educational Assistance for Romblon (RDL-CLEAR) recently voted to support SAM's campaign to have local and national officials declare a mining moratorium in the island.

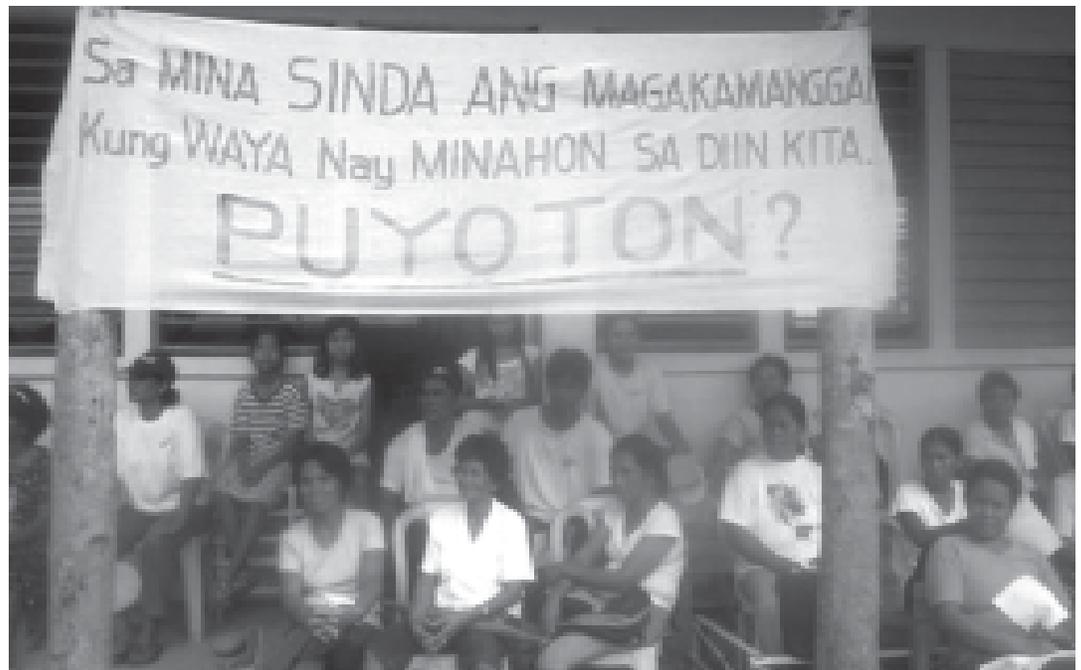
RDL-CLEAR's Honolulu-based president, Nic Musico, who is an environmentalist and a human rights advocate, says "Sibuyan is a very unique island because of its biodiversity. It should be protected from destructive commercial

operations like medium/large scale mining and large-scale logging. Local officials and President Arroyo should consider the long-term effects of their decisions on the environment and livelihood of the people of Sibuyan."

More anti-mining rallies were held in the island, including the caravan on March 11, 2007, which was participated in by more than 2,000 advocates. On June 9, 2007, some 3,000 people gathered to oppose the iron mining operations of JKL Brothers Mineral Ore Quarrying Enterprises in Brgy. Mabini, San Fernando. JKL is operating in partnership with Ore Asia Mining Development Corporation. Its area of operation extends over 3.36 hectares, for a period of two years. Environmentalists are particularly incensed that while its permit is for small-scale mining, JKL has been using heavy equipment in its mining operations in clear violation of the law.

Nickel-rich island

Sibuyan has an inferred nickel resource of 7.26 million tons. This sizable nickel reserve has naturally attracted a number of multinational mining companies.



June 9, 2007 protest in Sibuyan: "Sa mina sila ang yayanan. Kung wala nang miminahin, saan tayo populutin?"

Photo: Sibuyan ISLE, Inc.

ASIA'S GALAPAGOS

SIBUYAN is a crescent-shaped island of Romblon Province, Philippines. It has an area of 445 km². Primary forests cover 140 square kilometers, or 33% of the land area of Sibuyan.

Known for its biodiversity, Sibuyan has been dubbed by local and international natural scientists as the Galapagos of Asia. Its significance to the world's animal and plant diversity cannot be taken lightly.

Exact figures on the number of plant species are hard to give, as biologists continue to stumble upon species yet unidentified by the scientific community. In one study, the National Museum identified 1,551 trees in a single hectare, with 123 species of trees. Of this number, 54 are found nowhere else in the world. Sibuyan's forest has been



proclaimed as the world's densest forest. Scientists have yet to fully catalog the land-dwelling mammals, reptiles, and rodents that can be found in the island. Sibuyan shelters several threatened and endangered species.

Gutierrez and former Caloocan congressman Edgar Erice) conducted site visits in Brgy. España. The community strongly registered their opposition to the impending mining operation. Some of those who are actively opposed to mining have already experienced some forms of harassment and strong-arm tactics. For instance, the barangay treasurer of Brgy. España was unceremoniously removed from his job. His wife, also an anti-mining advocate, was fired from her job in the local day-care center. Another leader of the anti-mining movement in the barangay is unjustly facing charges of direct assault. (Sibuyanons, however, are relieved that SR Metals has been recently ordered by the Court of Appeals to stop operating in Tubay.)

On September 3, 2007, another application for exploration was published. The applicant, Rommel Ibuna, wants to explore nickel, iron, chromite and other associated minerals in seven barangays of the municipalities of Magdiwang and Cajidiocan in the province of Romblon. The total area

applied covers 1,339.9 hectares. Mayor Ibarra Manzala concurred with the resolution of the Sangguniang Bayan of Magdiwang (led by Vice Mayor Denisa Repiso) rejecting Ibuna's application. The four barangays affected likewise passed resolutions rejecting the project. In Cajidiocan, during the incumbency of Mayor Athena Malapitan, a resolution rejecting the project was approved by the Sangguniang Bayan under then-Vice Mayor Nicasio Ramos (currently sitting as mayor).

The struggle against the pillage of Sibuyan Island continues, despite the aggressive promotion of mining by the Arroyo administration. As long as the residents and other environmental advocates stay firm on their vision of a Sibuyan free from the clutches of large-scale mining companies, so will the Sibuyanons continue to have an island they call home.

**RODNE GALICHA is the coordinator of Sibuyan ISLE, Inc.*

ENDNOTE

^{1/} Identified as president of the company is Jose Miguel Cabarrus.



August 7, 2007 protest in Sibuyan

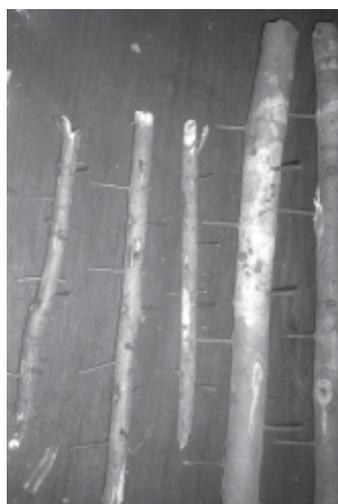
Photos: Sibuyan ISLE, Inc.

Canadian Altai Resources 'owns' the site through its own Altai-Philippines. The

Australian Pelican Resources, through its Sunshine Gold Pty. Ltd., with Sun-Pacific Resources and All-Acacia Resources (now SNPDC),^{1/} both through their local subsidiaries, were granted two Small-Scale Mining Permits effective for two (2) years. These mining operations are all in Brgy. Taclobo, San Fernando. The permit for All-Acacia covers 200,000 square meters, while the permit for Sun-Pacific covers 155,800 square meters. These permits allow the companies to extract 50,000 metric tons of nickel ore per year, or a total of 200,000 metric tons for two operations. These are, in effect, large-scale operations disguised as small-scale mining.

To date, there are three approved small-scale mining operations (with foreign financiers), two pending mineral productions agreement (MPSA) applications in four areas, one pending exploration permit (EP) application in the municipalities of Cajidiocan and Magdiwang, and two pending mining pier construction projects in San Fernando. A total of 13 plotted mining areas all over the island are open for application.

On August 7, 2007, an organization called Forward Romblon (FOROM) and Romblon Chamber of Commerce and Industry (RCCI) sponsored a forum in San Fernando. It was



Spikes spread on the roads by pro-mining supporters intended to harm the March 11 anti-mining march.

ostensibly held "to help clarify the issue of mining." However, the forum was a blatant pitch for mining companies.

During the forum, Mayor Nanette Tansingco announced that she will sign mining business permits anytime, because the documents are already complete. Her words are a complete turnaround from her July 4, 2007 assurance that she "will never be pro-mining."

Because the anti-mining advocates were not given a chance to present their perspective, people walked out from the forum.

Sibuyanons are particularly concerned over the continued opening up of their island to more mining operations.

Recently, SR Metals, Inc. (owned by a certain Alberto

(L-R): Herman Kraft, George Manzano (UA&P School of Economics), Loretta Rosales (Akbayan), and Wigberto Tanada (member, Working Group for an ASEAN Human Rights Mechanism).

Photo: ATENEO HUMAN RIGHTS CENTER (AHRC)



ASEAN CHARTER POSES DIFFICULT CHALLENGE

Regional alliance takes tentative steps toward one day possibly forming an economic and political union

■ By *VITIT MUNTARBHORN

ONE OF the more challenging developments at the recent summit of the Association of Southeast Asian Nations (Asean) in Cebu was the presentation of a report by the Eminent Persons Group, chosen to put forward groundbreaking ideas on the possibility of an Asean charter.

The charter was to come close to being a constitution for Asean, a treaty to put the organisation on a more certain footing with a legal personality, rather than a mere conglomeration of states. The report will now be followed by the drafting of an Asean charter, although the drafting process will be done by a different group of persons— a more technical group, drawn particularly from ministries within the Asean region.

There are a number of key recommendations in the Eminent Persons Group report.



Filipino solidarity groups picket in front of the Singapore embassy in Makati to call for democracy in Burma and for the release of freedom icon Daw Aung San Suu Kyi.

Photo: INITIATIVES FOR INTERNATIONAL DIALOGUE (IID)

First, the objectives of Asean are to be spelled out more clearly. The report highlights “the active strengthening of democratic values, good governance, rejection of unconstitutional and undemocratic changes of government, the rule of law including international humanitarian law, and respect for human rights and fundamental freedoms”. Interestingly, the report projects the vision of Asean as not only a “community” but also a future “union”.

While, of course, mention of

democracy and human rights is much welcome, on this front there has always been a huge gap between principles and practices in Asean. The regional and global public know all too well the ambivalence towards such notions that is prevalent in many national settings. As for the possible aspiration to become a “union”, it is to be remembered that Asean has established three communities as its pillars: the Asean Economic Community, Asean Security Community and Asean Sociocultural Community.

Under the first pillar, for example, there is to be closer integration on the flow of goods, services, investment and skilled labour. The Asean Economic Community now covers 12 priority sectors with cross-sectoral integration through common measures (common to the 12 sectors) and specific measures targeted to the sector concerned. For instance, in one of the sectors, rubber-based products, the common measures include elimination of tariffs for the older members of Asean by 2007 and newer members by 2012. These are complemented by agreements regarding investments, promotion and skilled labour.

Specific measures include the harmonisation of standards and technical regulations. Yet the notion of “union” suggests something more than the integration of sectors. It draws parallels from another regional entity, the European Union, which has evolved from the previous European communities to become a more synchronised body. Union, in that sense, means a monetary and political union.

Second, there is to be institutional restructuring of Asean. At the top level of the alliance today, we have the annual Summit of Heads of Government. This is now to be reshaped, becoming an Asean Council meeting at least twice a year. Under that umbrella, there would be three councils to deal with the three communities mentioned. This should help to propel the creation of “a single market with free movement of goods, ideas and skilled talent along with efforts to harmonise regional economic policies and strengthen regional linkages and connectivity”.

There is to be a greater role for the Asean secretary-general. The secretary-general, assisted by four deputies, will be the chief administrative officer of Asean, with the power to bring important issues to the attention of the council and to represent Asean, when mandated to do so, at the United

Nations and other forums. Yet the secretary-general of any organisation is often faced with the challenge whether to be a mere secretary or to become more of a general. The latter is unlikely for Asean.

Third, the charter is likely to stipulate various rights and obligations pertaining to membership. The pressures for accountability are referred to explicitly in the report, including possible suspension of rights and privileges where a member commits a serious breach. As for the sanction of expulsion from the organisation, the report tactfully states that there shall be no recourse to such action unless otherwise decided by the Asean Council in exceptional circumstances. In a way, this is a bolder vision for Asean, although the harder option will rarely be resorted to. Inevitably, a test case is the non-democratic nature of a key Asean government which has kept the legitimate leaders of the country under arrest and out of power for a long time. While recently Asean has become more assertive against that government and has become less attached to the previously sacrosanct principle of "noninterference in the internal affairs of a state", its position is still less progressive than that taken by various UN organs on this issue, and it has yet to produce tangible results.

Fourth, there is to be a more realistic decision-making process. To date, Asean has worked on the basis of consensus. This has impeded decision-making on some fronts. The Eminent Persons Group report proposes that while consensus should remain the basis for decision making in sensitive areas such as security and foreign policy, in other areas, it says a majority vote should rule if consensus cannot be achieved. There is also room for accepting formally a formula which is already being used in Asean, namely the "Asean minus X" or "2 plus X" formula which enables initiatives to be taken

by some countries, even if not all 10 Asean countries are ready to do so.

Fifth, the report calls for peaceful settlement of disputes and advises that dispute settlement mechanisms in the political and economic fields should be established. Intriguingly, it does not emphasise the reality that actually such mechanisms exist in Asean but they simply have not been used where disputes have arisen. Asean countries have shown themselves more ready to use quiet diplomatic channels rather than formal Asean channels. For instance, the first Asean treaty in the 1970s, the Treaty of Amity and Cooperation, provided for the setting up of a high council to settle disputes, but it has never been resorted to. There are also treaty provisions, which evolved later, to establish economic panels to help settle economic disputes, but these have yet to be utilized in real terms. As a test of confidence for existing Asean mechanisms, some Asean countries have preferred to use the International Court of Justice in the Hague to settle disputes between themselves rather than utilise existing Asean mechanisms. This has been the case with resource disputes between three Asean countries; the three have opted to go to the Hague.

In this regard, the Eminent Persons Group has not been bold enough to suggest that Asean should have a regional court as exist in other parts of the world such as in Africa, Europe and the Americas. Such a court would differ from the current mechanisms available in Asean; it would be able to issue binding decisions and have enforcement powers.

Sixth, one of the underlying aims of having an Asean charter would be to stipulate that the alliance has a legal personality. However, international law suggests that subjective stipulations on this front are not necessarily conclusive. The test of whether an entity has

international legal personality depends on how others deal with the entity, it depends on objective assessment and the recognition by other entities. For instance, are other countries ready to sign treaties with Asean as Asean, or will they continue to sign treaties with the 10 member states of Asean rather than Asean as an entity? If recognised as an entity, it would indicate that Asean had a legal personality. Interestingly, the report opens the door to putting Asean's legal personality on firmer ground by suggesting other countries may wish to send ambassadors accredited to Asean rather than merely accredited to individual countries with the group.

Seventh, there is to be a more people-oriented Asean, with the motto "One Vision, One Identity, One Community". The report calls for Asean to engage civil society, think-tanks and the Asean Inter-Parliamentary Assembly. It proposes the idea of consultative or advisory councils for interacting with civil society and parliamentarians from Asean member states. Yet it has not advocated the need for an Asean parliament or assembly with direct representation from the people of each country through a democratic process. This omission is obviously due to the current political physiognomy of Asean itself.

Eighth, the report notes that the idea of a regional human rights protection mechanism should be pursued further. It is common knowledge that Asia and Asean do not yet have such a mechanism to help promote and protect human rights where the national setting is not yet developed enough to do so. This support from the Eminent Persons Group is welcome and, in reality, a number of ideas have already been offered by civil society.

Given that all Asean countries are parties to the international treaties on women's rights and child rights, an Asean Commission on Women's Rights and Child

Rights could be set up. But it should provide "value added" service and not duplicate the work of international committees which already exist to protect such rights. A key angle is that the "value added" could be provided by an inter-governmental system which offers not only measures to prevent negative situations but also to protect people from harm and to provide redress directly to those affected by the negative situations. Those drafting the charter should consider this option very seriously. They may wish to be even bolder by instituting a broader mechanism such as an Asean Human Rights Commission to cover a whole array of issues. On a parallel front, it can be noted that the Cebu summit also adopted a declaration on the rights of migrant workers. This would also depend upon a monitoring mechanism at the regional level to encourage compliance.

Finally, a really bold measure would be to put the finished draft charter to the test by means of a referendum so that the peoples of Asean can be more involved in the process of evolving a so-called constitution for the region. While this is most improbable at this point in time, it should be necessary in the long term. The quintessential need for people's participation remains at the heart of the growth process of any regional organisation. It is the pivotal test of whether Asean has succeeded or will succeed in the future.

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VITIT MUNTARBHORN is a professor in the faculty of law at Chulalongkorn University. He is co-chair of the civil society working group for an Asean Human Rights Mechanism. He has served the United Nations in a variety of capacities, including as an expert, consultant and special rapporteur.

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BAD DEALS

CORRUPTION AND “onerous loan agreements” tainted not only the ZTE broadband deal but several other loans that the Arroyo administration signed with the Chinese government, according to the independent think-tank IBON.

IBON said that at least five other loans, mostly involving major infrastructure projects and worth more than US\$2.8 billion, are just as questionable as the US\$330 million ZTE broadband deal. These projects include the controversial Northrail Project.

Among the one-sided provisions of the Northrail loan

agreement, for example, are the following: China has the sole authority to determine the payment schedule; it has the right to impose immediate payments even before the project begins; and it places China’s laws as the governing laws for the agreement. In this agreement, the Philippine government irrevocably and unconditionally waives its immunity from any suit or judgment arising from the contract.

In fact, starting January 2005, the North Luzon Railways Corp. (NLRC) has been paying an average of \$400,000 (P17.118 million) per month in interest payments for the Northrail, even

if the Chinese contractor has not yet started building the Caloocan City-Malolos, Bulacan railway.

The deals with the Chinese government, according to IBON, should be opposed “not only because they worsen the country’s indebtedness, but also because they perpetuate the flawed neoliberal framework of economic development that has aggravated the country’s permanent crisis of maldevelopment and widespread poverty.”

SOURCES:

“Other gov’t deals with China also marred by bad loans and corruption.” IBON Media Release dated September 27, 2007.

Orejias, T. (Nov. 12, 2007). RP paying China P17M monthly in loan interest for NorthRail. Philippine Daily Inquirer. http://newsinfo.inquirer.net/breakingnews/nation/view_article.php?article_id=100426

Salot

By Pepito Frias

*Dayuhang minero
Ginto ang luho
Nagsadya kay Apo
Hanap ay bato*

*Dayuhang minero
Bundok ay kinalbo
Gubat ay na-troso
Binaha ang tribo*

*Dayuhang minero
Humukay ng bato
Nilason ng asido
Namatay ay tao*

HR TRIVIA:

THE RIGHT WORDS

THE CAMPAIGN to make poverty history – a central moral challenge of our age – cannot remain a task for the few. It must become a calling for the many.

KOFI ANNAN

Former Secretary-General, United Nations

IN THIS QUARTER

International Day for the Eradication of Poverty

ON OCTOBER 17, 1987, more than 100,000 human rights defenders converged on the Plaza of Human Rights and Liberties at the *place du Trocadéro* in Paris where the Universal Declaration of Human Rights was signed in 1948. The people came in response to an appeal by Father Joseph Wresinski and “to commemorate those who have fallen victim to extreme poverty, violence and hunger.” The Trocadero gathering proclaimed that poverty is a violation of human rights and called for the protection of these rights. A commemorative stone in honour of the victims of extreme poverty was inaugurated.

This gathering became known as the first International Day for the Eradication of Poverty.

The UN General Assembly, through resolution 47/196 adopted on December 22, 1992, declared October 17 as the International Day for the Eradication of Poverty.

This year’s theme is ‘*People Living in Poverty as Agents of Change: 20th Anniversary of the International Day for the Eradication of Poverty.*’

Sources:

<http://www.un.org/esa/socdev/social/intldays/IntlDay/index.html>
<http://web.amnesty.org/pages/poverty-161007-feature-eng>

COMMEMORATIVE STONE IN HONOUR OF VICTIMS OF EXTREME POVERTY

TROCADERO HUMAN RIGHTS PLAZA, PARIS, FRANCE

OCTOBER 17, 1987

ON THIS DAY, DEFENDERS OF HUMAN AND CIVIL RIGHTS FROM EVERY CONTINENT GATHERED HERE. THEY PAID HOMAGE TO THE VICTIMS OF HUNGER, IGNORANCE AND VIOLENCE. THEY AFFIRMED THEIR CONVICTION THAT HUMAN MISERY IS NOT INEVITABLE. THEY PLEDGED THEIR SOLIDARITY WITH ALL PEOPLE WHO, THROUGHOUT THE WORLD, STRIVE TO ERADICATE EXTREME POVERTY.



“WHEREVER HUMAN BEINGS ARE CONDEMNED TO LIVE IN EXTREME POVERTY, HUMAN RIGHTS ARE VIOLATED. TO COME TOGETHER TO ENSURE THAT THESE RIGHTS BE RESPECTED IS OUR SOLEMN DUTY.”

FATHER JOSEPH WRESINSKI



CORRUPTION PERCEPTIONS INDEX (CPI) 2006

(Top three, lowest, and Southeast Asian Countries)

*'2006 CPI score' relates to perceptions of the degree of corruption as seen by business people and country analysts and ranges between 10 (highly clean) and 0 (highly corrupt).

COUNTRY	CPI SCORE
1. Finland	9.6
Iceland	9.6
New Zealand	9.6
5. Singapore	9.4
44. Malaysia	5
63. Thailand	3.6
111. Timor Leste	2.6
Vietnam	2.6
Laos	2.6
121. Philippines	2.5
130. Indonesia	2.4
151. Cambodia	2.1
160. Myanmar	1.9
*163. Haiti	1.8
* lowest rank	

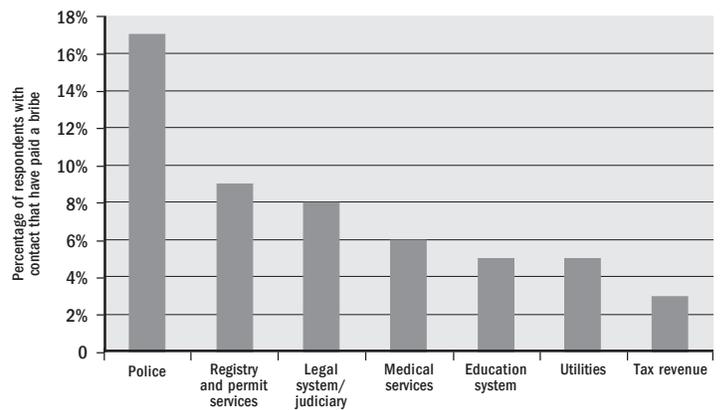
Source: Transparency International, Global Corruption Report 2007, Cambridge University Press, 2007

GLOBAL CORRUPTION BAROMETER 2006

THE CORRUPTION Barometer 2006 is a public opinion survey of 59,661 people in 62 low-, middle-, and high-income countries that seeks to understand how corruption impacts on the lives of ordinary people and thus providing insights on the form and extent of corruption from the perspective of citizens around the globe. The study was undertaken by Gallup International in behalf of the Transparency International, a global coalition against corruption.

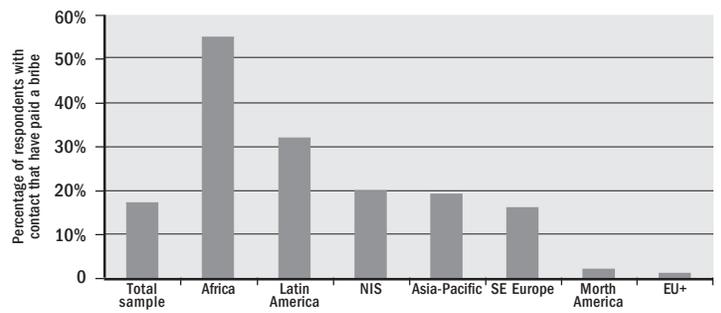
The following are some of the highlights of the research results:

FIGURE 1: Percentage of respondents who have paid a bribe to different sectors (total sample)



Source: TI Global Corruption Barometer 2006

FIGURE 2: The percentage of respondents that have paid a bribe to the police by regional grouping²



Source: TI Global Corruption Barometer 2006



TABLE 1: How would you assess your government's actions in the fight against corruption?

	Total sample	EU+	South East Europe	NIS	Africa	Latin America	Asia-Pacific	North America
Very effective	5%	4%	6%	3%	17%	7%	4%	2%
Effective	17%	18%	21%	14%	27%	18%	15%	17%
Not effective	38%	42%	30%	40%	24%	29%	34%	50%
Does not fight at all	16%	14%	19%	24%	20%	19%	18%	9%
Encourages it	15%	14%	9%	15%	9%	23%	15%	19%
Don't know	8%	8%	14%	5%	3%	4%	15%	4%

Source: TI Global Corruption Barometer 2006

*NIS - Newly Independent States

Source: Source: Transparency International, Global Corruption Report 2007, Cambridge University Press, 2007

THE 2007 SWS BUSINESS SURVEY ON CORRUPTION

FROM MARCH to May of 2007, the Social Weather Stations (SWS) conducted a survey on corruption among 705 Filipino managers in key industrial areas in the Philippines. Since 2000, SWS has been undertaking similar researches under the Transparent and Accountable Governance project to monitor the Philippine corruption situation over time.

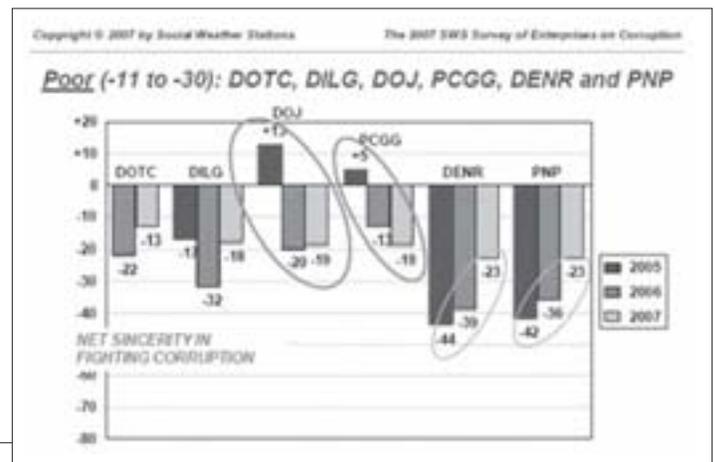
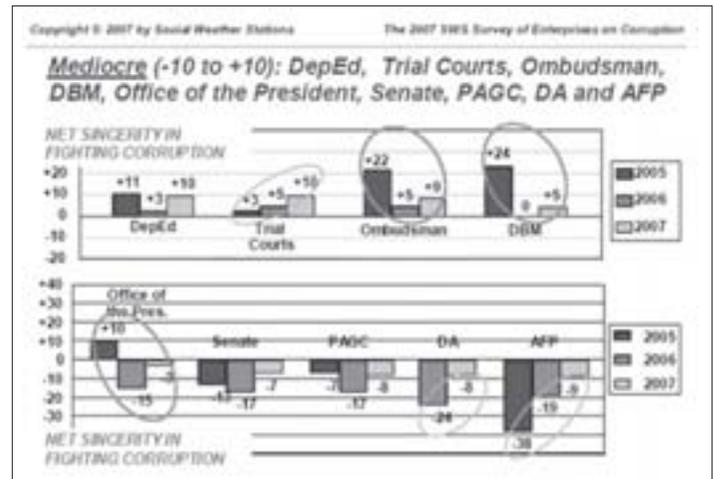
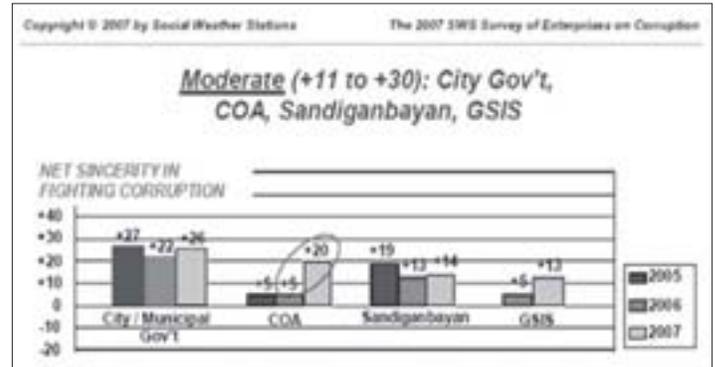
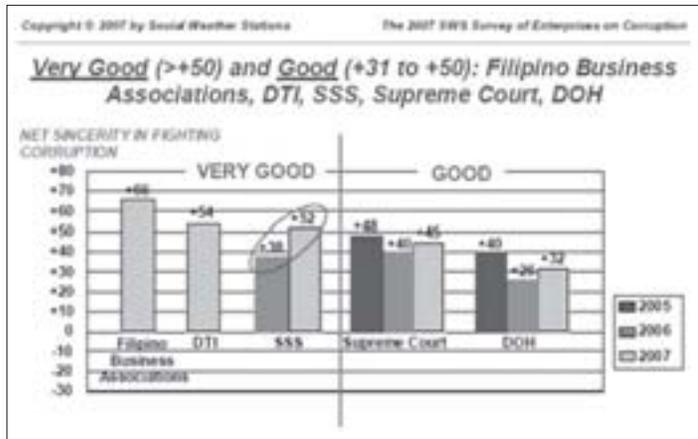
The following are some of the highlights of the said study:

Scale of Corruption

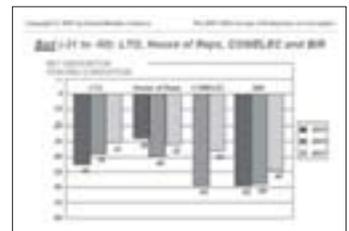
- Three (3) out of five (5) managers see a lot of corruption in the public sector – no improvement in seven (7) years;
- One (1) out of two (2) say that most / almost all the firms in their line of business give bribes to win government contracts and one (1) out of five (5) say firms give bribes to win private contracts;
- Fifty percent (50%) of the managers, versus forty percent (40%) in 2005, see corruption as part of how government works.

Sincerity in Fighting Corruption

- Of the 29 government agencies rated in 2007, 12 are positive and 17 are negative.

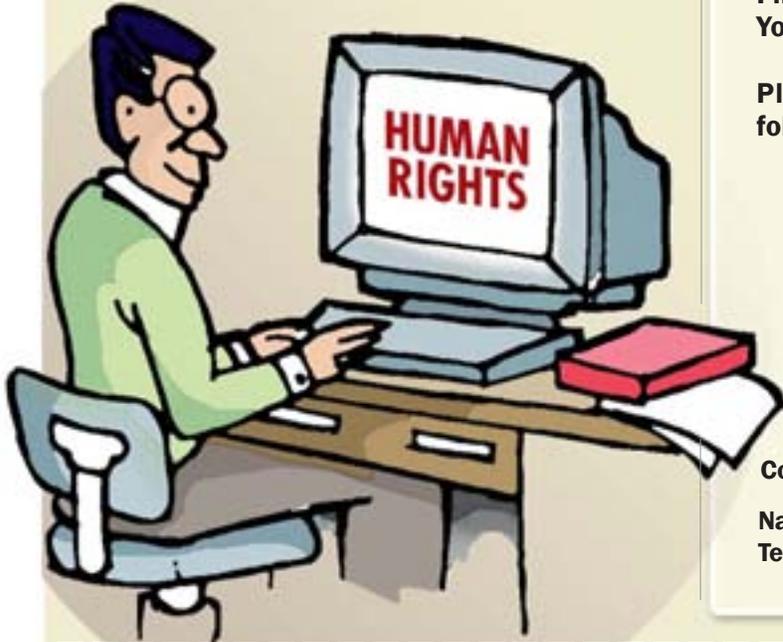


LABADA REPUBLIC



Source: Transparent Accountable Governance: The 2007 SWS Business Survey on Corruption, a presentation to the Cabinet, Malacañang, Manila, August 21, 2007

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Tel. nos. +(632) 433-1714 and +(632) 436-5686

E-mail: philrights@philrights.org

Website: www.philrights.org

Contributors must provide the following details:

Name, Organizational Affiliation (if applicable), Address, Telephone or Mobile Number, E-mail

ANNOUNCEMENT

SINCE APRIL 2004, the Philippine Human Rights Information Center (PhilRights) has been accepting interns from local and international institutions and universities. This Internship Program is open to college students, researchers or professionals who are interested in doing internship work in an NGO like PhilRights, especially those who want to expand their experience in human rights work. Interns are assigned to one of PhilRights' four institutional programs: information, research, training, and monitoring/documentation.

For details, please contact Mr. Pepito D. Frias, PhilRights Training Associate, at 433-1714 and 436-5686 or email at pepefrias@philrights.org.



**PHILIPPINE HUMAN RIGHTS
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53-B Maliksi St. Barangay Pinyahan
1100 Quezon City**

**BUSINESS MAIL ENTERED
AS 3RD CLASS (PM)
Permit No.: PM-07-03-NCR**