

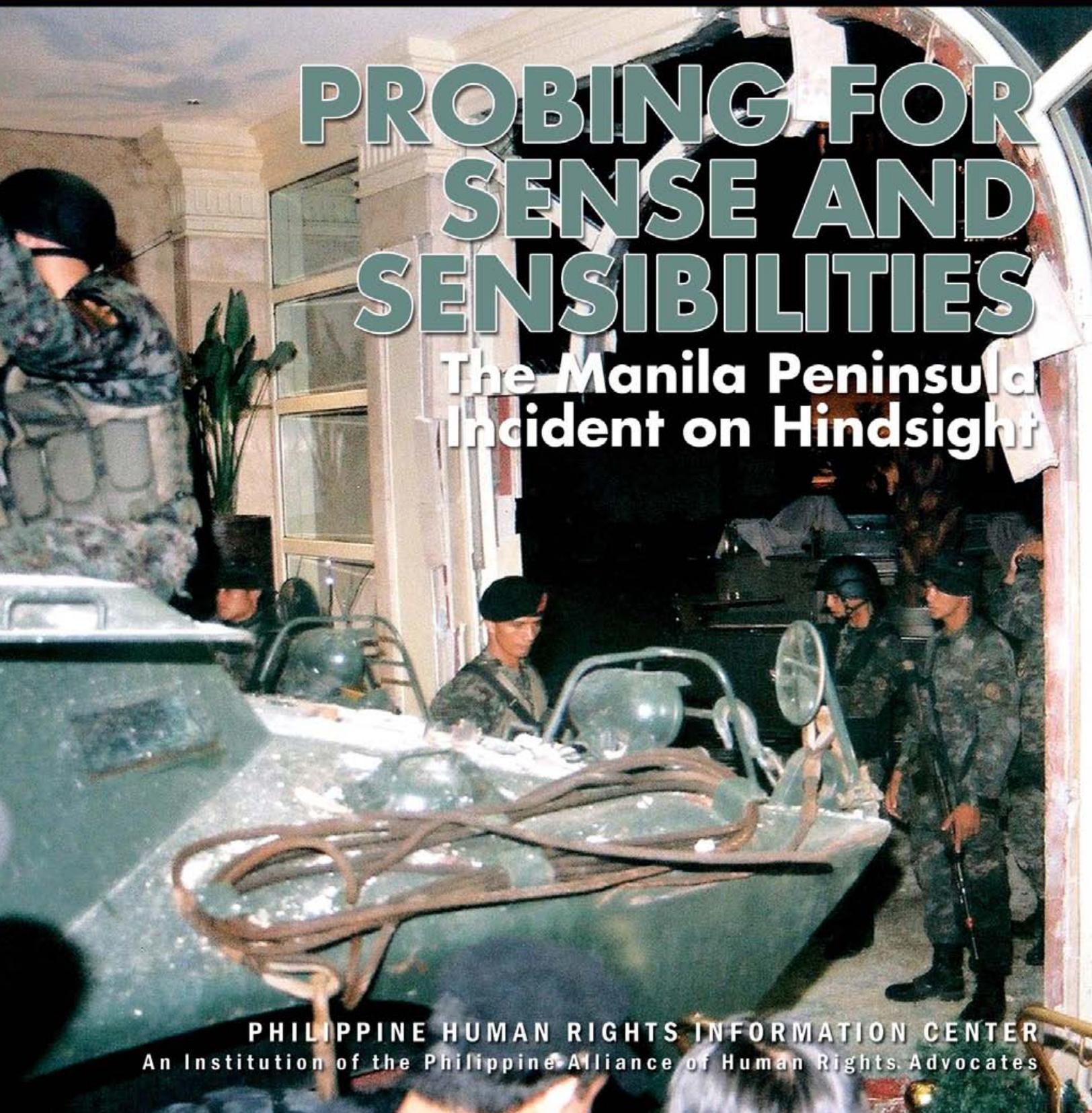
HUMAN RIGHTS **FORUM**

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PROBING FOR SENSE AND SENSIBILITIES

The Manila Peninsula Incident on Hindsight



PHILIPPINE HUMAN RIGHTS INFORMATION CENTER
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■ EDITORIAL

Karapatan sa Impormasyon

HALIGI NG buhay na demokrasya ang malayang pagkuha at pagpapaalam sa mga mamamayan ng mga impormasyon hinggil sa mga pampublikong usapin.

Una, napakahalaga ng mga impormasyon at kaalaman upang magkaroon ng 'check and balance' sa pagitan ng mga sangay ng pamahalaan at upang mabantayan din ng publiko at ng midya ang posibleng pag-abuso sa kapangyarihan ng mga nasa pwesto.

Kaya hindi rin naman kataka-takang 'pag may nahihigingang anomalya ang mga tao, unang tinitiyak ng mga tiwaling opisyal na walang mahahalagang impormasyong makakalabas sa publiko sa pamamagitan ng midya.

Marami na namang ganitong mga kaganapan sapagkat sangkatutak na ring iskandalo ang nasiwalat sa publiko pero hindi naresolba at wala namang naparusahan. Pero sa ngayon, kitang-kita ang pagbusal na ito sa katotohanan sa kaso ng NBN-ZTE *overpricing scandal*.

Sa ginawang pagdukot kay ZTE *star witness* Rodolfo 'Jun' Lozada upang mahadlangan ang pagharap niya sa Senado, nakita ng sambayanang Pilipino ang pangil ng Estado at kung hanggang saan ang pwede nitong gawin mapigilan lamang ang paglabas ng baho ng Malakanyang.

Sa kabilang banda, nabunyag din sa pagtestigo ni Lozada ang nakakabahalang paniniktik at pagsagap sa mga komunikasyon ng mga 'kaaway ng Estado' na sa totoo lang ay iyong mga taong kritikal sa nakaupong pangulo.

Kaya rin naman dapat ituring na isang tagumpay ng mga

nagtatanggol sa karapatang pantao ang pagpapalabas ng Korte Suprema ng *writ of habeas data* kung saan pwedeng magpetisyon ang mga indibidwal laban sa ilegal na paraan ng pangongolekta ng impormasyon at maling paggamit nito.

Pangalawa, importante ring magkaroon ng kaalaman ang mga mamamayan hinggil sa mga bagay-bagay sa gobyerno sapagkat kung wala ito, hindi pwedeng magkaroon ng makabuluhan at aktibong partisipasyon ang taumbayan sa pamamahala sa pambansa at lokal na lebel.

Hindi maaaring magtagumpay ang mga proyekto at programa ng pamahalaan sa pagkuha ng suporta ng taumbayan kung hindi sila nabigyan ng impormasyon at lubusang nakonsulta hinggil sa mga inisyatibang ito.

Hindi rin magkakaroon ng matalinong mga desisyon ang mga mamamayan sa mga panahon ng eleksyon, plebisito, at iba pang mga uri ng konsultasyon kung hindi ipinapakita ng ating mga opisyal ang kabuuang larawan at kalagayan ng mga pampublikong usapin.

Sa makabagong panahong ating kinalalagyan, napakadali nang magpaabot ng mga kinakailangang kaalaman upang magkaroon ng malusog na ugnayan ang mga mamamayan at ang pamahalaan.

Ngunit taliwas ito sa kalakaran sa Pilipinas. Madalas nakatago ang katotohanan at kung may maglalakas-loob na ibunyag ito tulad ni Lozada, pilit naman itong babaluktutin at tatabunan ng mga nasa kapangyarihan. ●



the headquarters of the National Capital Region Police Office (NCRPO).

The reasons they gave varied: Criminal Investigation and Detection Group-National Capital Region (CIDG-NCR) head Asher Dolina said the media needed to be processed, and he made it clear it was either as “witnesses” or “suspects.” Others said some of the Magdalo soldiers could have disguised themselves as media men, and so they needed to

check the identities of all the reporters who chose to stay behind and see the siege through.

In the end some 50 reporters, several of them handcuffed with plastic tie wires, were brought to Bicutan in a bus and “processed.” But not all.

In “Media Nation,” a talk show on media at the ANC cable channel, Philippine National Police (PNP) spokesperson Nicanor Bartolome admitted some reporters were allowed to

UNDER SIEGE

Press freedom and the embattled Arroyo administration

■ By ODINA BATNAG

On Nov 29, 2007, two groups actually made a stand at the Manila Peninsula – those who called for a change in government and the journalists who covered the call.

But while the police have already arrested and charged the Magdalos – as the soldiers affiliated with Sen. Antonio Trillanes IV are known – and their civilian supporters, they have yet to do the same with the media workers who refused to obey the police “request” to

stop covering the event and leave the hotel.

Media in manacles

Not that the police haven’t tried. As soon as the Magdalos were arrested, the police handcuffed some members of the media and brought them to



“The point for demanding for damages is precisely to make it costly for those who would abuse the power momentarily entrusted to them by the citizens of this land.”



MIGHTIER THAN THE SWORD?

The Pen played host to a show of military force against journalists covering another failed military-led attempt to unseat Gloria Macapagal-Arroyo. *Clockwise, from left:* journalists in plastic handcuffs about to be herded to Bicutan; soldiers about to storm the hotel; media coverage inside the Manila Pen, where the “Magdalo soldiers” holed out; and media coverage outside the hotel.

Photos by LITO OCAMPO



go after their IDs were checked. Others simply chose to walk out, and were not stopped by the police.

In Bicutan, the reporters were asked for their name, address and contact details, and then allowed to leave. There were no charges filed, then or later; nor was it made clear why they had to be brought all the way to Bicutan, instead of to the nearest police station.

Chilling effect

Since then, the government – and not just the police – has tried to justify the illegal arrest of the reporters.

When media groups questioned the legality of the arrests and warned against its “chilling effect” on members of the press, the police insisted that the Manila Peninsula hotel was a “crime scene,” and thus under the authority and jurisdiction of the police.

Palace officials, on the other hand, tried to convince the media to help draw up rules defining coverage, but reporters balked at this, believing that such rules would only restrict them and thus be tantamount to prior censorship. When a meeting between government officials and several media groups failed to come up with a consensus on media coverage, the NCRPO issued a set of guidelines restricting reporters (at least those covering the NCRPO headquarters in Bicutan) to the press room. It also warned police officers that terrorism and other such sensitive issues are topics that they are not supposed to discuss with the media. Instead, police officers were told to refer questions on such topics to the designated spokespersons.

Policing the media

On January 11, the justice department issued an advisory that read:

“PLEASE BE REMINDED THAT YOUR RESPECTIVE COMPANIES, NETWORKS OR ORGANIZATIONS MAY INCUR CRIMINAL LIABILITIES UNDER THE LAW, IF ANYONE



WHEN JOURNALISTS MAKE IT TO THE NEWS: “Media must act to help preserve democracy.”

Photo by LITO OCAMPO

OF YOUR FIELD REPORTERS, NEWS GATHERERS, PHOTOGRAPHERS, CAMERAMEN AND OTHER JOURNALISTS WILL DISOBEY LAWFUL ORDERS FROM DULY AUTHORIZED GOVERNMENT OFFICERS AND PERSONNEL DURING EMERGENCIES WHICH MAY LEAD TO COLLATERAL DAMAGE TO PROPERTIES AND CIVILIAN CASUALTIES IN CASE OF AUTHORIZED POLICE OR MILITARY OPERATIONS.”

Four days later, in their weekly forum, the police said it was standard operating procedure (SOP) to arrest anyone who would obstruct a police operation.

“We have SOPs and media have ethics. We have a law that says anybody who would not follow instructions could be charged with obstruction of justice,” Razon was quoted in news reports on January 16.

“Force will be used – if need be – to eject members of the media from a “crisis situation,” Chief Supt. Silverio Alarcio of the PNP directorate for operations was quoted by the Philippine Daily Inquirer.

“We can force you out because you are not supposed to be inside. You might have to be pushed out to enforce the law. It’s for your protection and so that you won’t be counted as victims.”

Razon was more descriptive: “Anong freedom of

“Hindi namin maaaring hayaan na ang kalayaan sa pamamahayag ay magipit sa makipot niyang kinalalagyan.”

.....
the press *pa ang pag-uusapan natin, kung yung member ng press ay patay na?*”

Witch hunt

As if to support their claims that the media got in the way of the police in the Manila Peninsula siege, the PNP went on the offensive the following day, actually blaming a reporter for the escape of one of the Magdalo leaders, Marine Capt. Nicanor Faeldon. Faeldon is being tried on charges of *coup d’etat* at the Makati Regional Trial Court, and was one of those who walked out of the trial, along with Trillanes and the other Magdalo officers.

“We were able to ascertain that the reporter assisted in Faeldon’s escape,” Razon was quoted in the Philippine Daily Inquirer on January 17.

“Nakita po sa CCTV at meron din testimony,” Razon was quoted by the Philippine Star. As early as December, Razon

had told the Manila Standard they were looking into the participation of a woman who appeared to have provided Faeldon with a press card, which helped him escape.

He said charges of obstruction of justice, as well as complicity to commit rebellion, might be filed against the reporter.

But not just yet. Razon said they would rather wait until Faeldon is recaptured before identifying the reporter.

In the days that followed, media went on a guessing game as police officers hiding behind the cloak of anonymity and media’s right to privileged information continued to leak out information describing the reporter. A senior police officer eventually identified the reporter before a group of reporters covering the police beat, but “off the record.”

When a national daily finally identified the reporter, it quoted an unknown source as saying that the reporter was caught on video helping Faeldon. As if on cue, the TV station released the footage of the reporter and Faeldon the following day, “in the interest of transparency.”

The newspaper source, however, said the reporter had curly hair, and that the video was the police’s strongest evidence against the reporter. The footage, however, only showed two people talking, their heads leaning towards each other, the reporter’s tape recorder between them. On the video, the reporter’s hair was straight, not curly.

Later reports quoted police officers as saying they had a video of the reporter talking to Faeldon, and handing him something. Earlier reports said it was a press card. Not one of the police sources quoted explained, at least in the news items that came out, how a female reporter’s ID could have helped a male Marines officer escape from the battalion of policemen and Marines that surrounded the hotel.

The reporter – as well as

other media groups - dared the police to file charges in court, but the police was just adamant. They would not officially name the reporter; neither would they file charges in court. Still, days after the incident, Razon insisted: "I am not inventing this; a reporter helped Faeldon escape."

Fighting back

The Philippine media, however, is fighting back.

When the police tried to handcuff the media, not all agreed. ABS-CBN news anchor Ces Drilon loudly protested, as did Malaya columnist Ellen Tordesillas. When the others followed Drilon's and Tordesillas' lead and started shouting "walang handcuffs!" as they sat on the teargas-filled stairs of the Manila Peninsula, the police backed down and simply brought the rest of the reporters to Bicutan in a bus.

Within days, the National Press Club, which had earlier drawn flak for "replacing" some revolutionary symbols in a mural it had commissioned for its building, questioned before the Commission on Human Rights (CHR) the legality of the arrests.

At least three cases have been filed in court, questioning not only the legality of the arrests of the media workers but the statements that followed, which said the arrests were legal and would be repeated, should a similar situation occur.

Led by the National Union of Journalists of the Philippines (NUJP), a group of reporters have filed a class suit at the Makati Regional Trial Court; 11 of those arrested at the Manila Peninsula have filed a Writ of Amparo before the Supreme Court; another case, for a Writ of Prohibition, has also been filed at the Supreme Court.

On the day the class suit and the Writ of Prohibition were filed before the Makati RTC and the Supreme Court, reporters made a rare show of unity by holding a joint press conference, to highlight the fact that the Philippine media is united in



A RADIO REPORTER IN HELMET: But is it enough protection against a repressive State?

Photo by LITO OCAMPO

fighting for the rights of freedom of expression and to information.

Writ of Amparo

The Writ of Amparo asked for protection from the court, considering the threats of arrest from the police and the promise - in the light of the DOJ memorandum - that it will be repeated, should a similar situation arise in the future.

"Unless we do something about it, the next crisis situation will see journalists again arrested or worse, and charged with abetting rebellion or some other such offense reminiscent of the martial law catch-all of subversion," said the plaintiffs to the class suit in a statement issued on January 28, the day it was filed.

"The uncertainty is the result of a government policy of press

intimidation to assure its political survival and dominance. That policy is being implemented as journalists continue to be killed and harassed, and bodes ill for the future of press freedom and democracy itself," the petitioners added.

Aside from asking for protection for the journalists from arrest and harassment by the police, petitioners in the class suit are also asking for P10 million in exemplary damages.

"The point for demanding for damages is precisely to make it costly for those who would abuse the power momentarily entrusted to them by the citizens of this land," the petitioners said.

"Today, we warn all those who would use and abuse the power that the people entrusted in them by cloaking the truth

from the people, that we can and we will back our words with action whenever our and the people's rights and liberties are threatened and assaulted," said the NUJP in a statement.

"The line has been moved," said Maria Ressa of ABS-CBN, in a statement after they filed the Writ of Prohibition before the Supreme Court. The rules of coverage are changing, she said, and the media must act to help preserve democracy.

"Isinasagawa namin ang pagkilos na ito sapagkat hindi namin maaaring hayaan na ang kalayaan sa pamamahayag ay magipit sa makipot niyang kinalalagyan base sa di-makatwiran na prinsipyo na binubuo ng mga nasa kapangyarihan para pagsilbihan ang kasalukuyang political na interes," Ressa added.

In this, at least, the media and the police agree.

Redefining the rules on coverage

In an interview with ANC's "Media Nation" in January, Bartolome admitted they would want to redefine the rules on coverage. When media groups criticized the PNP for engaging in a "witch hunt" in saying they have evidence that a reporter helped Faeldon escape from the hotel but then refusing to either reveal their evidence or to file charges in court, a Palace official again called on the media to meet with them and define rules of coverage to prevent similar conflicts between the police and the media in the future.

No one, so far, has agreed to such a redefinition of the rules of coverage.

Instead, reporters continue to sign on to the two cases, the one before the Makati RTC and the Writ for Prohibition before the Supreme Court. ●

**Ms. Batnag is a reporter of Jiji Press, a Japanese news agency in Manila. She was identified by the Philippine Daily Inquirer as the lady reporter being accused by the police of helping rebel soldier Capt. Nicanor Faeldon escape during the Nov. 29, 2007 "Manila Peninsula Siege."*

PROBING FOR SENSE AND SENSIBILITIES

The Manila Peninsula Incident on Hindsight

■ By **PERCIVAL CENDAÑA**

THE MANILA Peninsula incident of November 29, 2007 has taken on quite a myriad of names. It has been called a take-over, a stand-off, a walk-out, a mutiny, a criminal act, a foolish adventure, a farce, a comic opera, a power grab, a coup, an insurrection and another destabilization plot. Even the supposedly mundane task of grappling for a name to label the Manila Peninsula incident reflects the many different ways of how people are making sense of it and from where they are looking at it.

On the one hand, a label is extremely crucial in finding the meaning that might eventually lead to a plausible and acceptable explanation. Three months after the incident, many questions are still left unanswered. But on the other hand, even without the definitive answers, making sense of what happened is interestingly possible especially if juxtaposed with the national political context. This in the end



MUTINOUS: did he walk or did he stroll?

reveals what already is obvious about the politics of this country and everything that is wrong with it.

"Dissent without action is consent"

Even the verbs used to refer to what Brig. Gen. Danilo Lim, Sen. Antonio Trillanes IV and other co-accused did on that Thursday morning court hearing vary. Some accounts say they "walked out" while others



ON CALL: Director Geary Barias of the National Capital Region Police Office (NCRPO)



report that they "strolled out" of the Makati RTC. These two words denote different things: the first is forceful while the latter is leisurely. Whichever of the two verbs is correct, two things remain constant. One, they were not restrained from leaving the courthouse; and two, their security detail joined them in their unhurried march to the Manila Peninsula.

The first hour of the incident gave the impression that a painstakingly well-planned scheme was unfolding because the plotters even went to the extent of winning over their



SMASHED:
By late
afternoon of
November 29,
Lim and
Trillanes' caper
was over.
They were
teargassed.

Photos by
LITO OCAMPO



guards. But then again it is not surprising. As columnist Randy David puts it, General Lim and Senator Trillanes “are highly regarded by their men and by their contemporaries in the officers corps.” Professor David even stressed that “few senior officers in the military today can match their popularity among soldiers.” The two are not only well regarded, they are also not greenhorns in the field of military mutiny.

One of the first questions that begs to be answered is why they did it given that the odds were heavily stacked against

them — not much arms to defend themselves with, only a handful of followers, the February 2006 unsuccessful bid wherein Lim allegedly expected soldiers to march with Anti-Arroyo forces and the repeated failure to muster massive public outrage against the Arroyo administration.

Pundits and observers point out to two plausible explanations, each with a quite complex plot involving other allied military forces.

The first theory says that Manila Peninsula is a smokescreen, a necessary

diversion to take away the attention from the synchronized military operations of their allies aimed at toppling the administration. The targets of the offensive could have been the chain of command loyal to the Arroyos, key government officials and the residents of Malacañang.

The second theory identifies Manila Peninsula as the signal, the commencement of concerted efforts of their allies in strategic military camps in what could be described as "mutiny in place." Basically, the troops in various camps will declare that they are withdrawing support from the Arroyo administration.

In the early evening of November 29, after the surrender of Lim, Trillanes and company, it became apparent that none of the two scenarios materialized. Whatever it is they were planning fizzled out and their action joined the country's long list of failed purely military-led attempts to overthrow the regime in power.

Observers point out that what happened was a great miscalculation on the part of Lim and Trillanes. In the end, a repeat of February 2006 happened. The other actors in the plot, whoever or wherever they may be, did not deliver their part in the supposedly grand plan.

More severe critics argue that the two were delusional to expect their action to spark massive defections in the military which the plotters say is consistent with their constitutional mandate of being the protector of the people and the state. Critics even went to the extent of saying that the plotters missed an important logistic point if they expect civilian support for the simple reason that the incident took place a day ahead of the Bonifacio Day rallies.

The post-Manila Peninsula discussions revolved mainly around this matter, thus skirting and/or shrouding the more substantial issue of the compelling reasons



A SWAT team take cover behind a TV network's vehicle. Photo by LITO OCAMPO

behind the incident.

"Fighting this righteous cause"²

Government spokespersons during the day of the incident described the issues being raised by those in the Manila Peninsula as both trite and stale. They dismissed the grievances of Gen. Lim and company as recycled opposition rhetoric. The destabilization plot, according to them, disrupts the economic development that is being espoused by the administration.

Fr. Joaquin Bernas characterized the public's reaction as "while indicating disagreement with the means used by Trillanes and Lim, shows a widespread desire for an end to corruption that has weighed down the current administration." In calling for the ouster of the regime premised on the illegitimacy of the Arroyo presidency, Lim and Trillanes have laid down their case that in effect reminds the public of the wrongdoings and ills of the current administration. They also reminded the public of how the various legal processes have closed down for the airing of grievances and exacting accountability. This leads to an appreciation that the Manila Peninsula incident should not be at all surprising.

The Manila Peninsula incident happened in the context

What happened was a great miscalculation on the part of Lim and Trillanes.

of the NBN-ZTE deal, the bribery scandal in Malacañang and the sham impeachment complaint filed against President Arroyo. Some contend that it was a logical conclusion to the abuses committed by the administration, from the repeated dismissal of impeachment complaints to the clampdown of democratic and constitutional processes in haunting atmosphere of impunity. The destabilization plot was a result of the refusal of the government to address allegations of fraud and corruption squarely.

The Manila Peninsula incident in effect is a repercussion of the crisis of institutions. And an institution in a self-inflicted crisis is prone to incidents like this.

Do "not unnecessarily rile the media at this point in time"³

One of the most powerful images from the Manila Peninsula incident, other than

the brazen use of force when the military rammed a tank through the main entrance of the hotel, was the line of media people in plastic handcuffs defiantly raising their restrained hands. The military said that they were just being "invited" to Bicutan for processing, an invitation that they cannot possibly refuse.

No wonder, in a hour's time after the surrender of General Lim and Senator Trillanes, the spotlight of media coverage shifted to their fellow practitioners being held for "processing." The president's instruction to government officials on how to handle the media came two days late.

Veteran journalist Amando Doronila captured the indignation of journalists when he said that "never in the past have media people been arrested, handcuffed and manhandled for covering conflict and investigated for involvement in an insurrection, regardless of where the sympathies lie." Doronila also debunked the administration's claim that the presence of media was obstructing military operations.

After the incident, the Arroyo government earned another enemy. The battle for the freedoms being waged by media institutions drags up to now as the government continues to try to restrain media from covering events like the Manila Peninsula incident. The hardline stance of the administration as reflected in a recent government memorandum on the coverage of events like the Manila Peninsula incident is effectively laying bare its persistence to have its way in such situations without media documenting their actions.

That single image of handcuffed journalists says a lot about the attitude of this administration towards people's rights. It is also a very concrete manifestation of the government's disregard of the citizens' fundamental civil liberties. This is further emphasized by the imposition



WHEN THE TANKS CAME ROLLING IN: The posh Manila Peninsula hotel at the height of the November 29 incident.

Photo by LITO OCAMPO

of a curfew in the evening of November 29 without a proclamation of national emergency.

The imposition of the curfew, the government said, was to prevent other mutineers from launching another attack. But observers say that it was mainly directed towards achieving a chilling effect on the public especially those segments critical of the Arroyo government, to show that the administration will and can take drastic measures.

But more pragmatic pundits point out that it was meant to stain the image of Senator Trillanes, who garnered a whopping 11 million votes in the elections. The logic, they say, is for the people to blame Trillanes et al. for the inconvenience of the curfew. Whatever the real motivation behind it, the curfew is a limitation on the freedom of movement, a right guaranteed by the 1987 Bill of Rights.

The warrantless arrests and the curfew violate fundamental rights and are direct assaults on civil liberties. After November 29, the already poor human rights record of the Arroyo got

even worse.

Better to die for the nation and not because of some illness⁴

Gen. Lim explained to the public their actions on that fateful Thursday morning by saying, “we shall do whatever we can do to prevent any backsliding to the corruption and abuse of power of the immediate past, and advance the cause of truth, freedom, justice, peace and progress for all Filipinos.”

The message, lofty as it is, did not resonate up to the level Gen. Lim and Sen. Trillanes expected. It did not succeed in capturing the sympathy of their fellow soldiers and the general public. Significant segments in the military did not withdraw support from the Arroyo administration and the public did not pour into the streets in protest. But that does not undermine the validity of their cause and the weight of the issues they raised even if the form they chose divided even those critical of the Arroyo regime.

Beyond the substance and rhetoric, the Manila Peninsula incident must also be

appreciated not only in the context of the current political conjuncture but also on a more structural perspective. A flawed democracy like the Philippines is prone to events like this. The experience of some Latin American countries and even some of our Asian neighbors like Thailand points out that military intervention as an impulse is fuelled by the instability and lack of credibility of democratic institutions. As such, these democracies are hostage to direct military interventions with the end goal of regime change.

The Philippine experience has brewed its own permutation of power transfer outside the legally mandated processes. The People Power phenomenon as manifested in EDSA 1 and 2 is a porous combination of civilian and military participation. It has been proven time again by the Philippine experience that a purely military intervention is bound to fail as exemplified by the repeated attempts of Gringo Honasan and company during the Aquino regime and up to a certain extent the Oakwood mutiny.

One thing is for sure, the

Manila Peninsula incident would not be the last. As long as the political crisis persists and our democracy remains flawed, some forces will always view military intervention as an option to rectify societal ills brought about by corrupt and fraudulent regimes. ●

FOOTNOTES

¹ Pronouncement in the media of Brig. Gen. Danilo Lim, November 29, 2007

² From the statement read during the press conference in the Manila Peninsula, November 29, 2007

³ President Arroyo’s instruction to her top officials, December 1, 2007

⁴ Bibeth Ortez, screenwriter and breast cancer survivor, during an interview inside the Manila Peninsula, November 29, 2007, said “*Sana kung kailangan mo mamatay, mamatay ka para sa bayan, wag kang mamatay dahil sa sakit*”

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Mr. Cendaña is the Deputy Secretary General of Akbayan Party-list. The views expressed in this article do not necessarily reflect the official stand of Akbayan.

THE MANALO BROTHERS FROM VICTIMS

■ By **MAX M. DE MESA**

*We must not make a scarecrow of the law,
Setting it up to fear the birds of prey,
And let it keep one shape, till custom make it
Their perch and not their terror.*

- Shakespeare's *Measure for Measure*, II,i,1

Breaching the barrier

THE LINE that separates a victim of human rights violations (HRVs) from a human rights defender (HRD) is demarcated by the decision of the human will. The Manalo brothers, Reynaldo and Raymond, breached that line when they decided to file charges against their abductors, torturers, the accomplices and those with command responsibility over these security personnel.¹ This was done on August 23, 2007, less than two weeks after their escape from their 18 month-captivity in the hands of the military. Their reasons, not uninformed with fear of possible retaliation, were not only to seek justice for themselves, but to help break the impunity of perpetrators of enforced disappearances, torture and extrajudicial killings, among other human rights violations. By breaking their silence, the Manalo brothers have initially redefined themselves.

On December 26, 2007, under the new rule of the *writ of amparo*, the second division of the Court of Appeals, in a decision penned by Associate Justice Lucas Bersamin, unequivocally stated that "General Palparan's participation in the abduction was also established",² saying that he was "at the very least...aware of the [Manalo brothers'] captivity at the hands of men in uniform assigned to his command." This knowledge, according to the Court, showed Palparan's "indubitable command policy that unavoidably encouraged and

The brothers Raymond and Reynaldo Manalo put to the test the new writ of amparo.



not merely tolerated the abduction of civilians without due process of law and without probable cause."³

Denials

Palparan was the commanding general of the Philippine Army's 7th infantry division at the time the Manalo brothers were abducted from their homes in Brgy. Buhol na Mangga, San Ildefonso, Bulacan by soldiers and six members of the military-controlled Citizens Armed Forces Geographical Unit (CAGFU) on February 14, 2006.

TO DEFENDERS



KEEPING THE FLAMES ALIVE:
Human rights advocates call for an
end to human rights violations.

Photos by: JAY AZUCENA

Soon after the release of the decision, Palparan denied in media interviews any wrongdoing on his part or any knowledge of the two brothers.⁴ The General disavowed any hand or knowledge in the enforced disappearance, torture and illegal detention of the brothers, as well as the grave threats against life and security of the latter and their parents. Such brazen denial and defiance of the courts have been displayed before, as shown by court records.

On May 12, 2006, relatives of



the brothers filed a petition for *habeas corpus* before the Court of Appeals. Respondents to this petition were then Lt. Gen. Hermogenes C. Esperon as Commanding General of the Philippine Army, then Maj. Gen. Jovito Palparan as Commander of the 7th Infantry Division in Luzon, M/Sgt. Rizal Hilario alias Rolly Castillo, and Michael dela Cruz, Madning dela Cruz, Puti dela Cruz, Pula dela Cruz, Randy Mendoza and Rudy Mendoza as members of the CAFGU.

Respondents, in their return of the writ, denied being involved or participating in the Manalo brothers' enforced disappearance, "and have consistently done so ever since."

Severe torture

While in the custody of their captors, the Manalo brothers were kept at different periods in Fort Magsaysay, Laur, Nueva Ecija, the headquarters of the 7th infantry division; Camp Tecson in San Miguel, Bulacan; in a safehouse in Zambales; at the headquarters of the Army's 24th infantry battalion in Limay, Bataan; and in another safehouse in Pangasinan. It was in Pangasinan where the Manalos were able to escape on August 13, 2007.

In the course of their arrest and illegal detention, Reynaldo and Raymond experienced horrific acts of cruelty, inhuman treatment and torture. As Reynaldo recounts,

Two soldiers entered the room and beat me up. They doused me with urine, poured hot water over me, hit me in my stomach with a piece of wood, slapped me twice in the forehead with a .45 calibre gun, punched my mouth, kicked my head when I collapsed on the

cement floor, and burned different parts of my body with a smoldering wood. When another soldier noticed I was having difficulty breathing, he stopped his companion. They then went to the other room where Raymond was and beat the latter in turn. They tortured him in the same manner I was tortured, including the burning of the different parts of his body with a smoldering wood.

While the brothers were being held in Fort Magsaysay, Raymond was able to escape. But he was caught and brought back to the camp. The captors took their anger on Reynaldo, saying the escape proved that the brothers were really NPAs. Reynaldo was severely beaten. *"Pinalo ang aking likod gamit ang .45 baril, pinagsusuntok sa mukha hanggang hindi ko na makaya ang sakit.* (They whacked my back with a .45 pistol, they repeatedly punched my face until I could not endure the pain anymore.)

During captivity, the brothers "were beaten severely; bathed in their urine; whipped with a chain with a barbed wire attached to its end; had water poured in their nostrils; and were made to eat rotten food." Their captors also threatened to harm them or their families if they escape or tell anyone about the torture that they had gone through.⁵

Witness

It was also during their detention that the brothers met other detainees, including women detainees. Two of them were the missing University of the Philippines students (Sherlyn Cadapan and Karen Empeño) who were abducted on June 26, 2006 while doing research in a farming community in Brgy. San Miguel, Hagonoy, Bulacan. The two were abducted along with Manuel Merino, a farmer.

Raymond recounts that while they were in DTU [inside Fort Magsaysay], he got to know a woman named Malu, also a captive. *"Parang ginawang*

asawa ni "Master" del Rosario," according to Raymond's testimony. Malu told Raymond that she was from Bagong Pagasa, that she was abducted in Sibol, near San Idefonso. At the time Raymond met Malu, she had been held by the military for about a year.

Sometime in November 2006, while detained inside the barracks of Camp Tecson in San Miguel, Bulacan [which hosts the First Scout Ranger Regiment (FSRR) and is under the 24th IB], Raymond got to know Sherlyn Cadapan. Raymond described Sherlyn as *"babaeng nakakadena"* (chained woman). Sherlyn told Raymond that she had undergone severe torture. *"Si Sherlyn ang pinahirapan nina Mickey, Donald at Billy. Sabi ni Sherlyn sa akin na siya'y ginahasa."* (Sherlyn was tortured by Mickey, Donald and Billy. She told me she was raped.)

Raymond himself witnessed the torture of the two women.

Sherlyn and Karen

On November 26, 2006, the brothers, along with Manuel, Sherlyn and Karen were brought to the 24th Infantry Battalion (IB) camp in Limay, Bataan. It was here that Raymond witnessed the torture of the two UP students.

Sherlyn told her captors that there was a gun at her mother-in-law's house in Calumpit, Bulacan. On the evening of April 11, 2007, the soldiers took her to the place. They found no firearm. While they were there, Sherlyn attempted to leave a letter for her mother-in-law. The military escorts saw the letter and confiscated it.

Upon their return to the camp, Raymond saw the soldiers torture Sherlyn.

"Itinali siya sa bangko, itinaas ang kanyang mga paa. Binuhusan siya ng tubig sa ilong; kinuryente siya." (She was tied to a bench, her feet were lifted. Water was poured into her nose; she was electrocuted.)

"Sumisigaw sya," (She was screaming) Raymond recalls. *"Matagal-tagal siyang pinahirapan. Halos 1 drum ng tubig ang ibinuhos*

sa kanya.." (They tortured her for a long time. Almost a barrel of water was poured down on her.)

When Sherlyn said that Karen helped her with the letter, the soldiers took Karen outside and tortured her too. While Raymond could not see what the soldiers were doing to Karen, he could hear her screams.

The following day, Raymond recounts, he heard the soldiers taunting the two UP students. *"Inuyam sila sa ginawang pananakit, ipinaalala sa kanila ang ginawang paghipo sa kanilang ari at pagpasok ng kahoy sa kanilang ari."* (They were taunted about the pain inflicted on them; they were reminded that their private parts were touched and a wooden stick was inserted inside their sex organs).

Transfers

The five captives were then brought from Limay, Bataan, to a safehouse off the shore of Zambales. Although Raymond cannot be sure of the exact date, he recalls that the transfer occurred on May 8 or 9. There the Manalo brothers stayed until June, when they were again brought back to Limay, Bataan.

After two or three weeks in Limay, the Manalo brothers and Manuel were taken to a forested area by a certain "Lat", where they slept until Caigas ordered Lat to herd them back to the military camp.

The three were again taken to the forest the following night, this time by a certain "Robin." The next morning, they were brought back to the camp.

It was then that Raymond noticed that the two UP students were gone.

"Hindi ko na sila nakita," Raymond attested. (I never saw them again.)

The three captives were then kept inside the cell where Sherlyn and Karen had been kept. There they stayed chained for three days, Raymond recalls.

Operation Lubog

Raymond and Manuel were forcibly made to join the military's Operation Lubog in

Bataan. In one such operation, Raymond witnessed the soldiers kill two relatives of suspected New People's Army (NPA) guerillas.

"Dinala kami sa Brgy. Bayan-bayanan, Bataan at doon nakita kong pinatay ang isang matandang lalaking nagkakaingin lamang, si Mang Erning. Siya raw ay pinatay dahil may anak siyang lalaki na NPA at ang lugar niya ay tuluyan ng NPA. Pinatay siya sa gubat na pinagkakaingin niya; ginamit ang matalas na kahoy at tinaga ang leeg at ulo. Tinapon ang bangkay sa bangin sa likod ng manggahan." (We were taken to Brgy. Bayan-bayanan, Bataan, where I saw them kill an old farmer named Erning. According to them, they killed him because he had a son who is with the NPA, and their place was an NPA lair. They killed him in the forest where he had his *kaingin*; they used a sharpened piece of wood. They hacked him in the neck and head. They tossed the body in the ravine behind the mango trees.)

After a few weeks, the military had another operation. This time, they were taken to Brgy. Orion, to a house where NPAs are said to usually drop by. Raymond said that when the military saw that there was only an old, sick man inside the house, they grabbed the old man's son and took him to the riverbank. Donald Caigas shot the son three times in the head.

Torched

Raymond recalls another night when he saw Donald putting a silencer on his gun. Donald told Raymond not to pay attention to anything they might see or hear during the night.

"Kung mayroon man kaming makita o marinig, walang nangyari."

The next day, they saw the body of one of the captives who had been brought to the camp. *"Mayroong ibinuhos sa kanyang katawan at ito'y sinunog. Masansang ang amoy."* (They poured something on his body and torched him. The smell was horrible.)

About a couple of weeks after this, the military abducted

two Aetas. "Itinali sila sa labas ng isang kubo, piniringan, ikinadena at labis na binugbog. Nakita kong nakatakas ang isa sa kanila at binaril siya ng sundalo ngunit hindi siya tinamaan." (They were chained outside a hut, blindfolded and heavily beaten. I saw one of the Aetas escape. A soldier shot him, but he was not hit.)

That night, Raymond saw the soldiers kill the other Aeta captive. They also torched his body and buried him.

Almost a month after, a pick-up vehicle brought two bodies to the camp. The bodies were placed outside the fence. These were also torched. "Napakamasangsang ang amoy." (The smell was horrible.)

Manuel

Manuel, the farmer who had been abducted along with the two UP students, was not spared. Three days after he noticed that Sherlyn and Karen were gone,

"Ikinadena kami ng 3 araw. Sa ikatlong araw, nilabas ni Lat si Manuel (kasama nina Sherlyn at Karen) dahil kakausapin daw siya ni Gen. Palparan. Nakapiring si Manuel, walang suot pang-itaas, pinosasan. Nilakasan ng mga sundalo ang tunog na galing sa istiryo ng sasakyan. Di nagtagal, narinig ko ang hiyaw o ungol ni Manuel. Sumilip ako sa isang haligi ng kamalig at nakita kong sinisilaban si Manuel. (We were chained for three days. On the third day, Lat took Manuel out because General Palparan wanted to speak to him. Manuel was blindfolded, handcuffed, and was not wearing a shirt. The soldiers pumped up the volume on the stereo in their vehicle. Soon after, I heard Manuel's moans and screams. I peered out and saw Manuel being burned alive.)

Miscalculations

Somehow, the brothers have been spared by divine design or by military miscalculations. After all, there were several occasions wherein they could



Members of the Philippine Alliance of Human Rights Advocates (PAHRA) denounce State terrorism.
Photo by JAY AZUCENA

have been summarily killed.

When Manuel was caught during his escape attempt, his captors brought him to another area of Fort Magsaysay, near the camp entrance. He was severely beaten: punched, kicked, flogged with a chain until his back was bleeding. Then gasoline was poured over him. Suddenly, a person referred to as "Ma'am" called out that someone wanted to see Raymond before he was killed. The soldiers brought him back to where Reynaldo was being held, still in Fort Magsaysay.

The brothers were kept in chains for three or four days. The Manalos were told that the soldiers were still deciding whether to kill them or not.

More denials

But General Palparan refused to give credence to the testimony that the two brothers were brought by Rizal Hilario and a certain Efren to meet him in a basketball lot in Sapang, San Miguel, Bulacan. In this meeting, Palparan gave Raymond "another chance to live," on the condition that the latter will tell his parents not to attend rallies and court hearings, or seek help from human rights organizations, and instead, to help convince Raymond's brother Bestre to surrender.

For consistency and despite added witnesses to the contrary, General Palparan must also deny about what took place next when Raymond and Reynaldo were brought to their home at around

3 in the morning. Guarding them on this "visit" were Efren, Hilario and Hilario's men, who were also the ones who had abducted them. But it was only Raymond who was shown to the parents. Reynaldo was kept inside the vehicle because he could not yet walk.

According to Raymond, he conveyed to his parents the general's instructions. Hilario and his men were also present during this talk. Hilario also threatened the Manalo couple that should they join any rally or associated with people from human rights organizations, they will not see their children anymore.

Command responsibility

It may be recalled that during a session with the Melo Commission, Palparan agreed with the concept under the Doctrine of Command Responsibility that "responsibility for summary executions or disappearance extends beyond the person or persons who actually committed those acts. Anyone with higher authority, who authorized, tolerated or ignored these acts are liable for them."⁶

It must also be remembered that then Major General Jovito Palparan was praised by Ms. Arroyo, Chief Executive and Commander-in-Chief, in her State of the Nation Address in 2006 for his supposed exemplary performance in counter-insurgency. By extension, the General's actions against human rights, albeit implicitly as in a

blank check, could be covered by the commendation.

Challenges and risks

By going after those who have abducted, tortured and detained them, the Manalo brothers have captured the support and admiration of local and international human rights advocates. The Paris-based International Federation for Human Rights (FIDH), for example, in its August 30, 2007 Fact-Finding Report on the Philippines, noted that the Manalos account "confirms the fear of FIDH that torture is presumably regular in the process of arrest or abduction by the military or police." FIDH also noted the existence of a "culture of torture" within the the Armed Forces of the Philippines (AFP).

The Philippine Alliance of Human Rights Advocates (PAHRA), in its press statement, challenged both the president and the Commission on Human Rights (CHR) to act on the Manalo brothers' expose, noting that

These are serious allegations that no responsible Commander-in-Chief has the right to ignore. These are explosive revelations that no responsive national human rights institution has the prerogative not to investigate.

The challenges and risks are contained in their very experiences and to what they have witnessed. The responses they make to these challenges and the risks they are willing to take will define the kind of human rights defenders they will be and the rights they will defend.

In being arrested without warrants, uninformed of their rights, illegally detained without charges before the proper authorities and without counsel of their choice - these are violations against the right to due process. Abduction and enforced disappearance inflict not only emotional trauma on the families from whom the



Writ of Habeas Data

KATULAD DIN ng writ of amparo, ang petisyong *habeas data* ay napagpasyahang pagtibayin ng Korte Suprema upang maipagtanggol ang karapatan ng mga tao, lalo na ang mga kritikal sa pamahalaan, laban sa pang-aabuso ng mga nasa kapangyarihan.

Bagama't ang remedyong ito ay para sa lahat, ang nagbunsod sa mataas na hukuman upang isulong ito ay ang patuloy pa ring pagpatay at sapilitang pagkawala ng mga myembro ng mga grupong bumabatikos sa pamahalaan.

Ito ay nagkabisa nitong ika-2 ng Pebrero 2008.

Ano ang writ of habeas data?

Ang petisyong ito ay nagbibigay proteksyon sa mga taong nilabag o malalabag pa lamang ang karapatan sa 'privacy,' buhay, kalayaan, at seguridad dahil sa mga ilegal na aksyon o pagpapabaya ng sinumang opisyal o ahensya ng pamahalaang nangongolekta at nag-iimbak ng mga impormasyon hinggil sa katauhan, pamilya, tahanan, at mga komunikasyon ng mga biktima.

Ipinaliwanag ni Chief Justice Reynato Puno na bagamat ang *habeas data* ay katambal ng *writs of amparo* at *habeas corpus*, maaari rin itong magamit nang hiwalay upang mapangalagaan ang karapatan sa 'privacy' ng mga impormasyon hinggil sa isang indibidwal.

Sa ilalim ng remedyong ito, maaaring hilingin sa korte ng isang tao na ilabas, baguhin, itama, pigilin, o tuluyang sirain ng isang opisyal o ahensya ang anumang impormasyong nakalap nila hinggil sa

taong nag-petisyon. Ito ay kung mapapatunayang ilegal ang paraan ng pagkalap at ginagamit sa maling paraan ang nasabing impormasyon.

Halimbawa nito ang ilegal na pangangalap at paggamit ng impormasyon ng mga militar o ng kapulisan upang gantihan o di kaya'y patahimikin ang mga legal na personalidad na kabilang sa mga sinasabing maka-kaliwang grupo.



FOOTNOTES

- 1 Petition. Republic of the Philippines, Supreme Court. G.R.No. 179095, August 23, 2007, 1:11 P.M. filed for the Manalo brothers by the Counsels from the Free Legal Assistance Group (FLAG)
- 2 Salaverria, Leila, B. "Court says Palparan knew of abductions". Philippine Daily Inquirer (PDI), December 28, 2007, pp.1 and A15
- 3 Ibid., p. A15
- 4 Orejas, Tonette. "Palparan: There's no such policy; those are only perceptions". PDI, December 28, 2007, p. A15. Palparan was also seen on the evening TV news of December 27, 2007 which may also have contributed to newspaper reports the following day.
- 5 Petition. Republic of the Philippine, Supreme Court. G.R.No. 179095, op.cit., p. 1, Preliminary Statement
- 6 Report. INDEPENDENT COMMISSION TO ADDRESS MEDIA AND ACTIVIST KILLINGS,[more popularly known as the Melo Commission] Created under Administrative Order No. 157 (s. 2006), pp. 30-31
- 7 Gabieta, Joey A and Aning, Jerome. "Missing activist couple released by military in Leyte", Philippine Daily Inquirer (PDI), 30 Dec. 2007, p. A1. Also see Burgonio, TJ. "Karapatan: AFP liable for couple's abduction". PDI, 31 Dec. 2007, p. A5. The articles are about a couple, Manuel Pajarito and Juliet Fernandez, who were arrested at a checkpoint in Pinabacdao, Samar, on May 11, 2007. They were believed to have been brutally killed and Juliet raped. Search by parents of Juliet was in vain. Both were later presented alive before the media on Dec. 26, 2007. The relief over the couple being alive should not gloss over, much less condone, the military impunity of the abduction and the arbitrariness in complying with the rule of law.

victims are taken but result in economic dislocation as well. For the poor, each member is a major contributor to the sustenance and well-being of the whole family - on food, health, housing and education, among others. Here we realize again the indivisibility and interrelatedness of human rights - civil, cultural, economic, social and political.

There are still those named and unnamed victims of extrajudicial killings, and those still detained and tortured in the military's safehouses who may never obtain justice because relatives would not know where to begin to search.

While we are glad to see some initial victories, like that of the case of the Manalo brothers, we may also begin to see the limitations of the rule of the writ of *amparo*. What we must guard against is that the 'birds of prey' may get used to it and make it also their perch.⁷

Impunity cannot be stopped by any individual. It needs a people's resolve.

To break this impunity, human rights defenders must take root in the different grass-root communities and sectors of Philippine society. Formations of human rights defenders must be organized at all territorial levels to facilitate the monitoring and documentation of human rights violations. Absent the military's will to have a change of heart, solidarity actions to respect, protect and advance human rights must go beyond territorial, religious, political and ideological boundaries for the emergence of people's resolve to end enforced disappearances and extrajudicial killings. ●

The author is the Chairperson of the Philippine Alliance of Human Rights Advocates (PAHRA) and Convenor of the Citizens' Council for Human Rights (CCHR). CCHR was formed in 2005 to resist the increasing State repression of civil liberties, such as the freedoms of expression, association and assembly.

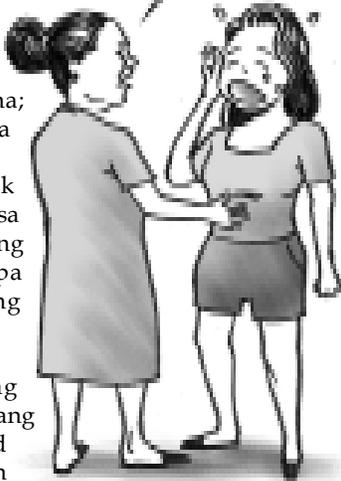
Sino ang pwedeng magsampa nito?

Sinumang biktima ay maaaring magpetisyon sa korte ngunit sa kaso ng mga sapilitang pagkawala at pagpatay, pwedeng magsampa sa hukuman ang mga sumusunod:

- a.) Sinumang miyembro ng pamilya ng biktima; asawa, anak, at mga magulang;
- b.) Sinumang kamag-anak ng biktima, hanggang sa ika-apat na antas, kung hindi makapagsampa ang mga naunang nabanggit.

Ang pagsusumite ng reklamong ito sa korte ay walang bayad para sa mga kapus-palad at dapat ding agad na tanggapin ng hukuman ang petisyon kahit na wala pang patunay na ang nagsumite ay kapus-palad nga. Mayroon silang labinlimang (15) araw upang makapaglabas ng mga patunay na sila nga ay mga dukha.

WAG, KANG PANG-ALALA, PANG-ALALA TAYO NG HABEAS DATA.

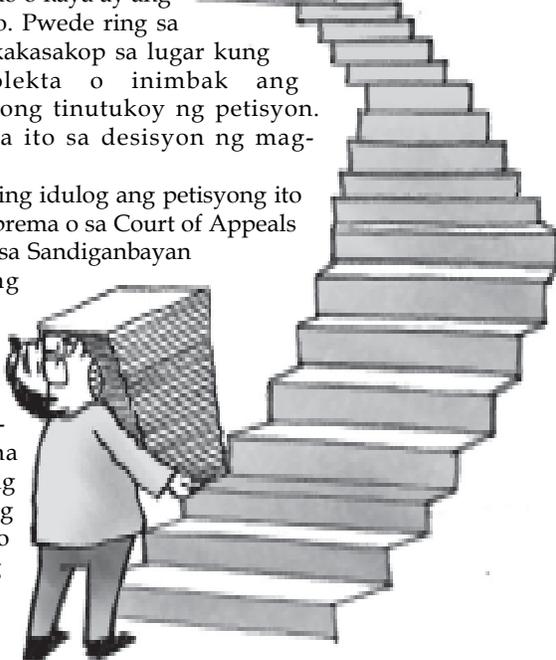


Saan ito pwedeng isampa?

Ang petisyong ito ay maaaring isumite sa Regional Trial Court (RTC) kung saan nakatira ang nagrereklamo o kaya ay ang inirereklamo. Pwede ring sa RTC na nakakasakop sa lugar kung saan kinolekta o inimbak ang impormasyong tinutukoy ng petisyon. Depende na ito sa desisyon ng magpetisyon.

Maaari ring idulog ang petisyong ito sa Korte Suprema o sa Court of Appeals o di kaya'y sa Sandiganbayan kung ang pakay ng reklamo ay pampublikong impormasyon na kinolekta ng isang ahensya o opisina ng gobyerno.

SUPREME COURT



Ano ang mga dapat lamanin ng petisyon?

- 1.) Mga personal na detalye hinggil sa nagkakaso at kinakasuhan.
- 2.) Paano nalabag o nalalagay sa panganib ang karapatan sa 'privacy' at paano naapektuhan nito ang karapatan sa buhay, kalayaan, at seguridad ng biktima.
- 3.) Ang mga aksyon at pamamaraang ginawa ng nagpetisyon upang makuha o mabawi ang impormasyong tinutukoy ng petisyon.
- 4.) Ang kinaroroonan ng mga dokumento, rehistro, at 'database' ng opisina at ng taong may hawak o may kontrol ng impormasyon. Ito ay kung nalalaman ng nagpetisyon ang detalyeng ito.
- 5.) Ang mga nais hilingin ng nagpetisyon tulad ng pagtatama, pagbabago, pagpigil sa pagsasapubliko, at pagsira sa mga dokumento at iba pang anyo ng dokumentasyong naglalaman ng impormasyon.

JUDGE, TAMA NA HO BA ITO PARA NILALAMAN NG AKING PETISYON?



Kapag may mga pagbabanta, maaari ring hilingin itigil na ng inirereklamo ang aksyong ito.

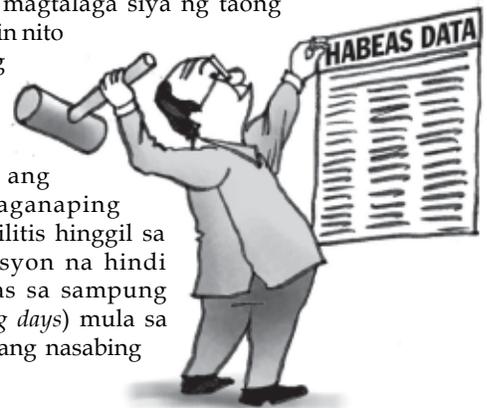
- 6.) At iba pang kaugnay na remedyong makatarungan at patas.

Pag-isyu ng Writ of Habeas Data

Kapag naisampa na ang petisyon at nakita ng huwes batay sa kanyang pagsusuri na dapat ngang maglabas ng writ na ito, magpapadala ang 'clerk of court' ng writ, na may selyo ng nasabing hukuman, sa lahat ng partidong kasangkot, sa loob ng tatlong araw.

Kung makita ng hukom o ng huwes na kailangang mabilisang maipalabas ang writ, pwedeng siya mismo ang sumulat nito at magtalaga siya ng taong pwedeng maghain nito sa kinauukulang mga tao.

Nakasaad din dapat sa kopya ng writ ang petsa ng gaganaping mabilisang paglilitis hinggil sa nakahaing paglilitis na hindi dapat lumampas sa sampung araw (10 working days) mula sa araw na naisyu ang nasabing writ. ●



■ By TRACY PABICO

THE GLOBAL campaign for the abolition of the death penalty made a significant leap when the United Nations General Assembly (UNGA) in its 62nd Session adopted a Resolution on the Moratorium on the Use of the Death Penalty. The Resolution was recommended by the Third Committee (Social, Humanitarian and Cultural Committee). It was passed despite overwhelming protests from a number of Member States on December 18, 2007 by a vote of 104 to 54, with 29 abstentions.

GLOBAL MORATORIUM ON EXECUTIONS: TOWARDS WORLDWIDE ABOLITION OF THE DEATH PENALTY



In October 2007, PhilRights took part in lobbying for the adoption of a global moratorium on the use of the death penalty.

Moratorium on executions

The resolution on moratorium on the use of the death penalty reaffirms the right to life as it is affirmed in Article 3 of the Universal Declaration on Human Rights and in other international human rights treaties such as the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child. It also recalls resolutions on the question of the death penalty adopted by the former Commission on Human Rights.

The resolution welcomes "the decisions taken by an increasing number of States to apply a moratorium on executions, followed in many cases by the abolition of the death penalty".

It calls on all States that continue to impose the death penalty to "respect international



Marlin Gray Vigil Pictures, October 26, 2005, St. Louis Independent Media Center. www.stims.org



NO TO THE DEATH PENALTY: European Union (EU) diplomats and Filipino Lawmakers.

Photo by TRACY PABICO

standards that provide safeguards guaranteeing the protection of the rights of those facing the death penalty, and to provide the Secretary-General with information relating to the use of capital punishment and the observance of safeguards”.

The resolution entreats other countries to “progressively restrict the use of the death penalty and reduce the number of offences for which it may be imposed”.

The resolution also calls on all States that have abolished the death penalty not to re-introduce it.

Although not legally binding, the UNGA resolution on a moratorium on the use of the death penalty is a significant human rights tool. The resolution is an affirmation of Member States’ commitment to work towards abolition of the death penalty. It is also a relevant instrument that will encourage other Member States



UN BUILDING UN PHOTO LIBRARY

to review their use of the death penalty

Debate at the Third Committee

The draft resolution on a moratorium on the use of the death penalty was approved by the Third Committee with a recorded vote of 99 in favor to 52 against and with 33 abstentions. The approval of the draft resolution had been a result of intense debate and deliberation. Each Member State stood firmly on their national positions on the death penalty: *abolitionist or retentionist, for or against.*

Retentionist

A total of 14 amendments to the draft resolution were introduced by countries (Egypt, Singapore, Barbados, Antigua and Barbuda, and Botswana) opposed to the moratorium on the use of the death penalty.

Opponents to the resolution stated that the move was an attempt by States that have abolished the death penalty to impose their values on States that have not.

The draft resolution was perceived as an imposition on the sovereignty of each State to practice its own legal systems. A number of Member States argued that the death penalty is not illegal under international human rights law and that every State has the sovereign right to determine its own criminal and judicial system. Opponents to the resolution also argued that the death penalty is a matter of the country’s criminal justice

VOTE ON A MORATORIUM ON THE USE OF THE DEATH PENALTY

THE DRAFT resolution on a moratorium on the use of the death penalty (document A/62/439/Add.2) was adopted by a recorded vote of 104 in favour to 54 against, with 29 abstentions, as follows:

IN FAVOUR: Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Canada, Cape Verde, Chile, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Guatemala, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Kazakhstan, Kiribati, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mali, Malta, Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Moldova, Monaco, Montenegro, Mozambique, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Palau, Panama, Paraguay, Philippines, Poland, Portugal, Romania, Russian Federation, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Tajikistan, The former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Turkmenistan, Tuvalu, Ukraine, United Kingdom, Uruguay, Uzbekistan, Vanuatu, Venezuela.

Against: Afghanistan, Antigua and Barbuda, Bahamas, Bahrain, Bangladesh, Barbados, Belize, Botswana, Brunei Darussalam, Chad, China, Comoros, Democratic People’s Republic of Korea, Dominica, Egypt, Ethiopia, Grenada, Guyana, India, Indonesia, Iran, Iraq, Jamaica, Japan, Jordan, Kuwait, Libya, Malaysia, Maldives, Mauritania, Mongolia, Myanmar, Nigeria, Oman, Pakistan, Papua New Guinea, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Solomon Islands, Somalia, Sudan, Suriname, Syria, Thailand, Tonga, Trinidad and Tobago, Uganda, United States, Yemen, Zimbabwe.

Abstain: Belarus, Bhutan, Cameroon, Central African Republic, Cuba, Democratic Republic of the Congo, Djibouti, Equatorial Guinea, Eritrea, Fiji, Gambia, Ghana, Guinea, Kenya, Lao People’s Democratic Republic, Lebanon, Lesotho, Liberia, Malawi, Morocco, Niger, Republic of Korea, Sierra Leone, Swaziland, Togo, United Arab Emirates, United Republic of Tanzania, Viet Nam, Zambia.

Absent: Guinea-Bissau, Peru, Senegal, Seychelles, Tunisia.

SOURCE:

UNGA DPI News and Media Division. *General Assembly adopts landmark text calling for moratorium on death penalty.* <http://www.un.org/News/Press/docs/2007/ga10678.doc.htm>. December 18, 2007

and not of human rights.

Arguments were focused on the principle of non-intervention of the UN in domestic matters and maintenance of national sovereignty for each Member State.

Abolitionists

Co-sponsors and supporters of the draft resolution defended that the draft resolution does not violate the sovereignty principle of any Member State, as such resolutions are not interventions. They believed that the promotion of a

moratorium on the death penalty by the international community did not constitute a form of intervention in the domestic jurisdiction of a State. The purpose of the draft resolution was not to intervene, but to reinforce a growing trend towards phasing out the death penalty, which was a legitimate concern of the international community.

They believed that the issue of death penalty is a matter that fell within the principle of human rights as well as the dignity of a human person, and

The UNGA resolution on a moratorium on the use of the death penalty is a significant human rights tool.

that the promotion of all human rights and fundamental freedoms must be considered a priority concern of the UN. The death penalty is certainly not just within the

domestic matters of a State.

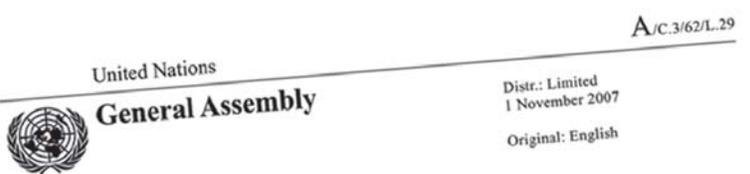
Co-sponsors had hoped that the adoption of the draft resolution will lead to a universal dialogue on the death penalty and human rights.

In the end all proposed amendments were defeated and the draft resolution was adopted.

Cross-Regional Initiative

The initiative for a global moratorium on executions was primarily led by ten countries: Albania, Angola, Brazil, Croatia, Gabon, Mexico, New Zealand, the Philippines, Portugal (for the European Union) and Timor Leste. The idea was to organize a cross-regional initiative that will call on other States to adopt a resolution calling for a moratorium on executions.

Eighty-seven countries, including the 27



Sixty-second session
Third Committee
Agenda item 70 (b)
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Albania, Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Cape Verde, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Guinea-Bissau, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Mexico, Micronesia (Federated States of), Moldova, Monaco, Montenegro, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Philippines, Poland, Portugal, Romania, Samoa, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Tuvalu, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Vanuatu and Venezuela (Bolivarian Republic of): draft resolution

Moratorium on the use of the death penalty

The General Assembly,

Guided by the purposes and principles contained in the Charter of the United Nations,

Recalling the Universal Declaration of Human Rights,¹ the International Covenant on Civil and Political Rights² and the Convention on the Rights of the Child,³

Recalling also the resolutions on the question of the death penalty adopted over the past decade by the Commission on Human Rights in all consecutive sessions, the last being its resolution 2005/59,⁴ in which the Commission called

¹ Resolution 217 A (III).

² See resolution 2200 A (XXI), annex.

³ United Nations, *Treaty Series*, vol. 1577, No. 27531.

⁴ See *Official Records of the Economic and Social Council, 2005, Supplement No. 3 and corrigenda (E/2005/23 and Corr.1 and 2)*, chap. II, sect. A.



A/C.3/62/L.29

upon States that still maintain the death penalty to abolish it completely and, in the meantime, to establish a moratorium on executions.

Recalling further the important results accomplished by the former Commission on Human Rights on the question of the death penalty, and envisaging that the Human Rights Council could continue to work on this issue,

Considering that the use of the death penalty undermines human dignity, and convinced that a moratorium on the use of the death penalty contributes to the enhancement and progressive development of human rights, that there is no conclusive evidence of the death penalty's deterrent value and that any miscarriage or failure of justice in the death penalty's implementation is irreversible and

Welcoming the decisions taken by an increasing number of States to apply a moratorium on executions, followed in many cases by the abolition of the death penalty,

1. Expresses its deep concern about the continued application of the death penalty;

2. Calls upon all States that still maintain the death penalty to:

(a) Respect international standards that provide safeguards guaranteeing the protection of the rights of those facing the death penalty, in particular the minimum standards, as set out in the annex to Economic and Social Council resolution 1984/50 of 25 May 1984;

(b) Provide the Secretary-General with information relating to the use of capital punishment and the observance of the safeguards guaranteeing the protection of the rights of those facing the death penalty;

(c) Progressively restrict the use of the death penalty to the most serious offences for which it may be imposed;

(d) Establish a moratorium on executions with a view to abolishing the death penalty;

Calls upon States which have abolished the death penalty not to reinstate it;

Requests the Secretary-General to report to the General Assembly at its sixty-third session on the implementation of the present resolution;

Decides to continue consideration of the matter at its sixty-third session

European Union states, more than a dozen Latin American countries, and eight African states jointly introduced the resolution.

The resolution has been a collective effort of countries that have abolished the death penalty.

But opponents of the resolution only pointed to EU as the driving force. They claimed that the resolution was an imposition of Western values by the EU.

EU States have abolished the death penalty and is considered as a continent free of the death penalty. EU has been supportive of global campaigns and local initiatives aimed at abolishing the death penalty. Thus, a support for the resolution is but relevant and necessary.

Two previous attempts to have the General Assembly adopt a moratorium on the death penalty in 1994 and 1999 failed.

This time, human rights organizations such as the Amnesty International (AI), the World Coalition Against the Death Penalty and regional networks like the Anti-Death Penalty Asia Network (ADPAN) lobbied relentlessly for the adoption of the UNGA resolution.

Towards universal abolition

The resolution did not abolish the death penalty. However, the call for a moratorium establishes a framework of abolishing the death penalty. The resolution is a powerful tool for human rights activists to organize actions that will compel governments to review and report its implementation.

According to Amnesty International, a total of 133 countries, from all regions of the world, have abolished the death penalty in law or practice and only 25 countries carried out executions in 2006. 91% of all known executions took place in six countries: China, Iran, Iraq, Pakistan, Sudan and the USA.

Recorded executions worldwide fell by more than 25% in 2006, with a drop from at least 2,148 in 2005 to at least 1,591.

"I am particularly encouraged by the support expressed for this initiative from many diverse regions of the world," U.N. Secretary-General Ban Ki-moon said in a statement. "This is further evidence of a trend toward ultimately abolishing the death penalty." ●

The Philippine Human Rights Information Center is a member of the Anti-Death Penalty Asia Network (ADPAN) and was part of Amnesty International's lobbying delegation to the United Nations General Assembly which took place in October 2007 at the UN in New York City.

SOURCES:

UN News Centre. *General Assembly committee backs global moratorium on death penalty*, <http://www.un.org/apps/news/story.asp?NewsID=24679&Cr=general&Cr1=assembly>. November 15, 2007

UNGA DPI News and Media Division. *Ten Amendments to Draft Proposing Moratorium on Use of Death Penalty Rejected by Recorded Votes in Third Committee*, <http://www.un.org/News/Press/docs/2007/gashc3905.doc.htm>. November 14, 2007

UNGA DPI News and Media Division. *Two-Day Deliberations End with Contentious Resolution Calling for Moratorium on Use of Death Penalty Approved by Third Committee After Vote*, <http://www.un.org/News/Press/docs/2007/gashc3906.doc.htm>. November 15, 2007

UNGA DPI News and Media Division. *General Assembly Adopts Landmark Text Calling for Moratorium on Death Penalty*, <http://www.un.org/News/Press/docs/2007/ga10678.doc.htm>. December 18, 2007

<http://www.amnesty.org>



MORE BUDGET NEEDED: Dilapidated schools (above), farm-to-market roads (below)
Photo by TRACY PABICO

2008 budget: hefty, but is it enough?

IT IS the country's biggest budget ever. With a P1.2267 trillion budget, people should be expecting more services from the government in 2008. The 2008 budget is premised on the generation of P1.236 trillion in government income, of which P1.108 trillion is expected from taxes, and P127 billion from non-tax sources.

The approved budget is about P300 million less than what Malacañang originally proposed.

Lawmakers cut some P25.9 billion from debt servicing as proposed in the budget Malacañang submitted to Congress. They likewise cut P12.638 billion from the proposed allocations for "slow-moving projects, excess allocations and other miscellaneous allotments." According to Rep. Edcel Lagman, head of the House committee on appropriations, these amounts were then reallocated to social services.

The P38.5 billion coming from the debt service reduction and the cuts in "slow-moving projects" were realigned to increase the appropriations for health, education, agriculture, social welfare, infrastructure, local governance and development, justice and the judiciary, labor and employment, energy, environment, and public safety and security.

Infrastructure allocations received the highest realign-

ment of P12.982 billion, for a new total appropriation of P94.729 billion.

Health, education and agriculture also received increases of P5.790 billion, P4.829 billion and P1.872 billion respectively.



Photo by RHODA VIAJAR

With the increased allocation, basic and higher education now has an appropriation of P158.602 billion; health, P25.847 billion; and agriculture, P29.161 billion.

At P295 billion, debt servicing remains the biggest budgetary item, eating about 24% of the total budget.

Aside from debt servicing, the other contentious items include the insertion of additional P13.5 billion as Priority Development Assistance Fund (PDAF) for congressmen, popularly referred to as "pork barrel", and the P114 billion "unprogrammed funds" requested by Malacañang, which Rep. Lorenzo Tañada III described as a "blank check" being handed to President Arroyo. ●

Breast milk advocates lose

IN A DECISION widely criticised by local and international advocates of breastfeeding, the Supreme Court on October 9, 2007 voted to strike down three portions of the Health Department's Administrative Order 2006-00012 or the revised implementing rules and regulations of Executive Order 51, popularly known as the "Milk Code."

In nullifying the Milk Code's prohibition on infant formula advertisements, the high court ruled that the Department of Health (DOH) can only regulate and not completely ban the advertising and promotion of breastmilk substitutes for children up to two years of age.

Despite the lifting of the ban, the DOH vowed that infant formula ads will "go through stringent checks" by the Inter-Agency Committee that checks milk ads before these are aired.

Health Undersecretary Alex Padilla said the IAC will determine the truthfulness of these ads and check for false nutritional health claims that milk companies make on their products.

The breastfeeding group



DEPRIVED OF MOTHER'S MILK: Aggressive promotion of infant formulas has imperilled the well-being of Filipino babies. Photo by TRACY PABICO

Arugaan, through Ines Fernandez, criticized the SC decision, saying it favored the protection of infant formula sales rather than Filipino mothers and their babies. The ban on advertisements "would have aligned the Philippines with international standards on infant formula milk," Fernandez said.

Fernandez added that "even the Codex Alimentarius, the internationally recognized standards and guidelines relating to food production and safety, has already disallowed nutritional health claims on formula milk." The Codex Alimentarius was established by the World Health Organization and the United Nation's Food and Agriculture Organization.

Instead of seeking a motion for reconsideration, the DOH said it would work with Congress in revising the Milk Code and support the passing of new laws on breastfeeding.

The Pharmaceutical and Healthcare Association of the Philippines (PHAP) stood as petitioner in the case.

Among its members are medical giants Abbot Laboratories, Wyeth Philippines, Mead Johnson, AstraZeneca Pharmaceuticals, Bayer Philippines, Novartis, GlaxoSmithKline and Mercury Drug corporation.

The stakes are certainly high for infant milk companies. The Philippines is one of the most lucrative markets for baby formula products. A 2006 report from AC Nielsen shows that more than \$100 million are spent annually to advertise milk, an amount that is almost half the DOH annual budget. According to industry estimates, some P3.1 billion of infant milk is imported annually by the Philippines, and it is sold at seven times the import cost, or P21.5 billion.

PHAP lawyer Felicitas Arroyo argued that the multinational milk companies would stand to lose P10 billion (US\$222 million) if the RIRR were immediately implemented, and that this would force the companies to reduce their in-country workforces. ●

Declining breastfeeding rate noted

THE SUPREME Court decision comes at a time when public health officials are voicing alarms over the decreasing number of mothers who are breastfeeding their babies, coupled with the high infant mortality rate. The DOH notes that exclusive breastfeeding rates during the first four to five months have declined, from 20% in 1998 to 16% in 2003.

UNICEF reported that "the average duration of exclusive breastfeeding in the Philippines went down from 1.4 months in 1998 to a mere

24 days in 2003 — a far cry from the recommended six months."

The international standard is exclusive breastfeeding until six months and continuous breastfeeding until two years.

This significant decline in breastfeeding rates over the last ten years can be traced to aggressive promotion, advertising and marketing by infant milk manufacturers, UNICEF notes.

According to Dr. Nicholas Alipui, UNICEF's representative to the Philippines, "Infant formula has been glamorized to the point that many mothers are now convinced that it is superior

to mother's milk." Alipui said that this is far from the truth.

In the Philippines, about 82,000 children under 5 die each year, mainly because of poor nutrition. The World Health Organization estimates that about 16,000 of these deaths are caused by "inappropriate feeding practices, including the use of infant formula." ●

SOURCES:
www.bulatlat.com
www.gmanews.tv
www.inquirer.net
www.medindia.net/news
www.msnbc.msn.com

HR TRIVIA:

THE RIGHT WORDS

WE MUST recognize the role of human rights in eradicating hunger and poverty, and the connection between development, human rights and security.

UN Secretary-General Ban Ki-moon's message on World Food Day 2007

IN THIS QUARTER

WORLD FOOD Day is commemorated every 16th of October, the day the Food and Agriculture Organization (FAO) was founded. Since its first observation in 1981, WFD aims to increase awareness of the problem of hunger, food insecurity, malnutrition and famine that plague more than 850 million people all over the world.

In 2007, the World Food Day banners the theme: The Right to Food. According to international law, the right to food "is the right of every person to have regular access to sufficient, nutritionally adequate and culturally acceptable food for an active, healthy life. It is the right to feed oneself in dignity, rather than the right to be fed." Through this year's observance of WFD, governments are reminded that the Right to Food is not just an economic, moral or political imperative - it is a legal obligation. Calling attention to the Right to Food demonstrates increasing recognition by the international community of the important role of human rights in eradicating hunger and



poverty, and hastening and deepening the sustainable development process.

In the Philippines, the World Food Day commemoration is highlighted by the Social Weather Stations (SWS) survey that shows "hunger has risen to its record high status since (mid) 1998 with 21.5% of families living with hunger."

Sources:
<http://www.fao.org>
<http://www.whiteband.org>

LABADA REPUBLIC



FACTS AND FIGURES

FOOD SECURITY STATISTICS

	1995-1997	2001-2003	2008 (Projected)
Population (in millions)	69.9	78.6	90.5

FOOD DEPRIVATION

	1990-1992	1995-1997	2001-2003
Proportion of undernourishment (%)	26	22	19
Number of undernourished (millions)	16.2	15.4	15.2

POVERTY

	2003	2006
Poverty Threshold (in Philippine Pesos)	12,309	15,057
Poverty Incidence (% of population)	30.0	32.9
Magnitude of Poor (in million)	23.8	27.6

FOOD AND POPULATION GROWTH (AVERAGE ANNUAL RATE OF CHANGE (%))

	1979-1981 to 1990-1992	1990-1992 to 1995-1997	1995-1997 to 2001-2003
Food	2.6	3.1	2.6
Population	2.4	2.2	2.0

CHILD NUTRITIONAL STATUS (1998)

Wasting, less than -2 s.d (%)	6.5
Stunting, less than -2 s.d (%)	32.1
Overweight, more than +2 s.d (%)	1.0

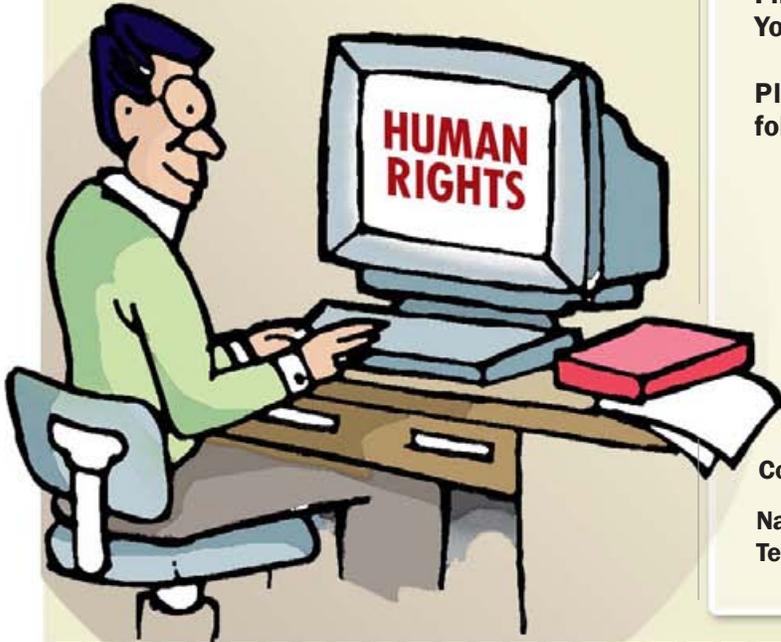
HEALTH

	1990	2003
Life expectancy at birth (years)	66	70
Under-five mortality rate (per 1,000 live births)	63	36
Infant mortality rate (0-1 year) (per 1,000 live births)	45	27

Sources: NSCB; FAOStat, Food and Agriculture Organization of the United Nations



Write for your rights



IN DEFENDING human rights and human dignity, silence is not golden. So speak up. Write down your thoughts. Your ideas are valuable. Contribute to the Human Rights Forum. Send us Letters to the Editor, literary contributions, analytical essays, feature stories, in English or Filipino. You may also send us photos and images.

Please submit your contributions through the following contact details:

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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.



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