

# In a Coercive Environment: **Nursing a Culture of Fear and Breeding Tolerance to Impunity**

BY **RENATO G. MABUNGA**

**T**HE 2007 human rights situation was characterized by a combination of political gimmickry and sincerity; of alarm and a stubbornness to rectify; and of a sharp contrast between policy pronouncements and implementation. It was a show-off of concerns to end impunity at various levels, from mere palliatives and political gimmickry on the part of the executive, sincere resolve and 'activism' on the part of the Supreme Court and confusing signals for justice to victims and civilian populace. Yet at the end of the year, despite the pronouncements, the coercive environment remained. This environment nursed a culture of fear among civilians and human rights victims, and bred tolerance to impunity even amidst 'mechanisms' purportedly to resolve it.

## **The Alston report**

After the much-publicized official mission to the Philippines by Professor Philip Alston, the *UN Special Rapporteur on extrajudicial, summary or arbitrary executions*, in February 2007, there seemed to be lull in some cases of civil and political rights violations and an upsurge of concern for and interest in human rights. The concern and thirst for information was understandable. The worsening human rights situation had captured public attention, even as alleged perpetrators and the military were washing their hands. But the media kept reporting on cases that seemed to point to the military's





bloodied hands. Foreign governments constantly monitored the Arroyo administration's actions and compliance to various recommendations. Civil society, both local and international, untiringly pursued multi-level advocacy for justice. All these have impacted on the government's international image and have strengthened questions on Arroyo's legitimacy to govern and capacity to resolve the issue.

The lull could also be seen as a 'cooling period' for the State to debunk claims that cases of extra-judicial execution, enforced disappearance, harassment and torture are happening and have been rising since the assumption of Gloria Macapagal-Arroyo in 2001. But some sectors know that the country is in the 'eye of the storm' – seemingly peaceful after the outburst of criticisms but brewing new horrors that would be let loose when least expected.

## In denial

This condition could be attributed to two factors. First, the government vehemently denied what Alston exposed as twin-policy initiatives encouraging violations of people's rights. It was not willing to amend these policies; in fact, it was defending these policies as priority programs against 'enemies of the state.' The second factor could be the incessant attempt of the government to salvage its deteriorating international reputation brought about by its failure to act decisively on issues of human rights. There was massive international pressure from among the UN Special Procedures, solidarity groups and foreign governments, which called for international actions and threatened to tie international assistance and development aids to the resolution of human rights violations (HRVs).

In the advance official copy of the Alston report to the United Nations Human Rights Council, the *rapporteur* pointed out the military's counter-insurgency program and the misguided priorities of the criminal justice system as reasons behind killings of activists, journalists and human rights defenders and the impunity that attended these killings. In his report, Alston said that "the military's counterinsurgency strategy against the CPP/NPA/NDF increasingly

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focuses on dismantling civil society organizations that are purported to be 'CPP front groups'." The rapporteur also scored the country's criminal justice system for its failure "to arrest, convict, and imprison those responsible for extrajudicial executions." According to Alston, the failure of the justice system can be partly traced "to a distortion of priorities" in which law enforcement focuses on pursuing civil society leaders, "rather than their killers."<sup>1</sup>

## Red baiting

In 2006, the government unleashed its Oplan Bantay Laya II, declaring military offensive against insurgency and vowing to crush it by 2010. This 'all-out war policy' aimed at destroying all structures of 'perceived enemies of the state,' including legal organizations of the civil society movement. To boost the program, an additional P2 billion was allotted to the military.

Oplan Bantay Laya was conceived as a total approach of 'neutralizing the enemies,' using "a massive and well-coordinated mass-based psychological operation directed against the mass movement and organizations allegedly supportive of the CPP-NPA."<sup>2</sup> This policy is dramatically illustrated in the military's extensive 'order of battle,' a lengthy list of personalities and human rights organizations tagged as 'fronts' of the Communist Party of the Philippines (CPP) and therefore classified as 'enemies of the state.'

In Central Luzon, as a case in point, counterinsurgency operations start with the setting up of a military detachment in the community. At the early stage, soldiers conduct 'house-to-house visits,' demanding resident certificates or '*cedulas*' from all members of the family – even those below 18 years of age. Among the information collected are names, occupations and organizational affiliations of the residents. These are data that will give the military a picture of the "power structure" and political alignment of the community. Failure to present a '*cedula*' is seen as tacit admission of the person's membership to the insurgency. They are then 'invited' for further interrogation in the camp – with no counsel present – so as to 'clear' their name. Anyone who fails this vetting



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procedure will be enrolled in the military 'watch-list' or be required to make regular visits to the camp to prove innocence.

Most often, 'suspected' persons speak of being threatened, harassed and even tortured in the process of military interrogation. Collected information "is used either to identify NPA fighters and members of leftist civil society (or 'front') organizations or as a starting point for conducting individual interviews to elicit that information."<sup>3</sup> In many instances, the military would call for a barangay-wide meeting or 'pulong-bayan' after the 'house-to-house census.' In these assemblies, they would show a video documentary titled 'Know Thy Enemies' to vilify the CPP/NPA/NDF and its alleged 'front' organizations. Indoctrination follows and a 'sham mass surrender' ritual concludes the assembly, to show the community's intention of "returning to the fold of the government." The vilification and intimidation of persons who do not "surrender" too often escalate into torture, enforced disappearance or extrajudicial execution.

Information gathered is also used to recruit or assign residents as members of Civilian Volunteer's Organization (CVO), Barangay Self Defense Unit (BSDU) or Citizens Armed Forces Geographical Unit (CAFGU). These paramilitary groups would 'hold' the barangay once it has been 'cleared', the military hopes. The civilian volunteers accompany AFP units on operations, and serve, in effect, as armed informants, enabling the military to pull back and focus on other barangays.<sup>4</sup>

## Legalizing impunity

Impunity characterizes cases of extrajudicial executions, enforced disappearances, torture and harassments. This impunity is explained by the government's 'holistic strategy,' in which the counter-insurgency program (or violations committed in pursuit of it) will be backed by a legal framework. It is therefore important to understand the significance of the Inter-Agency Legal Action Group (IALAG) in the overall counter-insurgency strategy.

IALAG is an executive body established under Executive Order 493 ("Providing for the Creation of the Inter-Agency Legal Action

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Group (IALAG) for the Coordination of National Security Cases").<sup>5</sup> Its stated purpose is "to provide effective and efficient handling and coordination of the investigative and prosecutorial aspects of the fight against threats to national security." It is composed of representatives of the Office of the National Security Adviser, Department of Justice (DOJ), Department of National Defense (DND), Department of Interior and Local Government (DILG), National Intelligence Coordinating Agency (NICA), Armed Forces of the Philippines (AFP), Philippine National Police (PNP), National Bureau of Investigation (NBI), and "such other units as may be tasked by the National Security Adviser."<sup>6</sup> It shall be reporting directly and shall be accountable to the National Intelligence Board (NIB) for its objectives and performance."<sup>7</sup> It has regional and provincial counterparts.

IALAG is a mechanism to bring charges against civil society organizations, their leaders and members, by labelling them as 'fronts' of insurgency and/or as insurgents. It exists to provide proactive legal strategy for the counter-insurgency campaign, to prosecute individuals considered enemies of the state; and even to proscribe organizations as 'fronts' of insurgency or as part of a 'terrorist' network. In the words of Professor Alston, "the temptation to execute such individuals is clear, representatives of the AFP and PNP with the capacity to do so participate in IALAG bodies at all levels, and there is circumstantial evidence that this has sometimes occurred. The most deleterious role played by IALAG bodies may, however, be to encourage prosecutors to act as team players with the AFP and PNP in counterinsurgency operations and to de-prioritize cases involving the deaths of leftist activists."<sup>8</sup>

IALAG laid the ground for another law known as the 'Human Security Act of 2007' or the 'Anti-Terrorism Act' which was passed by Congress in March 2007 and took effect on July 15 of the same year. While it purports "*to protect life, liberty and property from acts of terrorism, to condemn terrorism as inimical and dangerous to the national security of the country ... and to make terrorism a crime against the Filipino people, against humanity, and against the law of nations,*" it is a very dangerous law. The HSA authorizes preventive detention, expands the power of warrantless arrest, and



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allows for unchecked invasion of privacy, liberty and other basic rights. On mere suspicion of engaging in terrorism, a person may be arrested without warrant and detained without charges.<sup>9</sup>

Attempts to establish military culpability for the series of unexplained killings have been brushed aside by the military as counter-propaganda. Allegedly, representatives of the United Nations have been co-opted by the civil society movement to put the government and its armed forces in a bad light and embarrass the Arroyo administration in the international community. The military institutions stand on their version, based on their 'intelligence' gathered, that summary executions in the country are a result of the continuing purge within the communist party, allegedly to rid itself of 'deep penetration agents' who slowly weaken the foundation of the group. This purge is allegedly extended even to those working in the progressive legal movement. But to human rights observers and even to the general public, this glib account is 'strikingly unconvincing.'

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Despite the AFP's hand-washing, the Special Rapporteur on Summary Executions bid the government to eliminate extrajudicial executions from its counterinsurgency operations, pointing out the following:

- ☞ *As Commander-in-Chief of the armed forces, the President must take concrete steps to put an end to those aspects of counterinsurgency operations which have led to the targeting and execution of many individuals working with civil society organizations.*
- ☞ *The necessary measures should be taken to ensure that the principle of command responsibility, as it is understood in international law, is a basis for criminal liability within the domestic legal order.*
- ☞ *The Government should immediately direct all military officers to cease making public statements linking political or other civil society groups to those engaged in armed insurgencies. Any such characterizations*

*belong solely within the power of the civilian authorities. They must be based on transparent criteria, and conform with the human rights provisions of the Constitution and relevant treaties.*

- ✎ *Transparency must be introduced to the “orders of battle,” “watch lists,” and similar lists of individuals and organizations maintained by the AFP, PNP, and other elements of the national security system. While their contents might justifiably be considered secret, which lists exist, their purposes, the criteria for inclusion, and the number of names on each should be made public.*

## **Recycled statistics**

The military declined to submit to the findings of the report. To date, it has not released a categorical statement supportive of the findings of the Special Rapporteur. While it was vehement in refuting any links to the numerous cases of HRVs, especially when international fact-finding missions played up the issue, the military started to sing a different tune in the latter part of the year. After Professor Alston and other international human rights observers visited the Philippines, the military re-focused its PR by publicly announcing headway in ‘implementing the recommendations’ of the rapporteur.

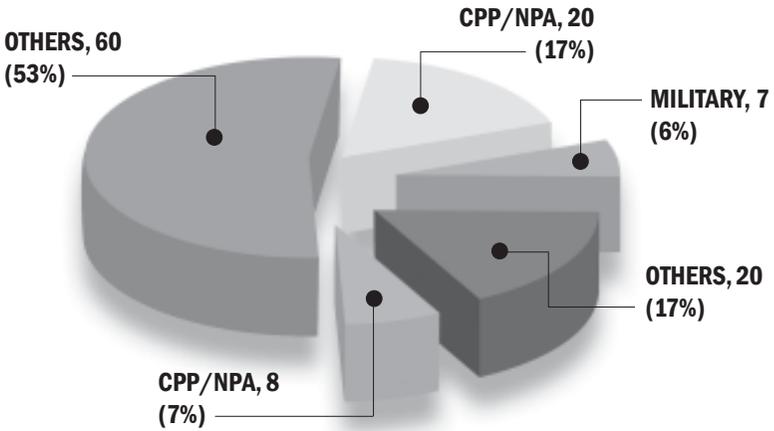
For example, the Philippine National Police (PNP) bragged about the continuing efforts of its Task Force Usig. It claimed in its November 2007 report that it had investigated 114 cases of murder of activists and 27 killings of journalists perpetrated since 2001. PNP Director General Avelino Rason said that of the total number of cases investigated, 57 had been filed in courts, 7 were still under investigation, 49 were considered ‘cold cases,’ and one has been dropped or closed.<sup>10</sup> It must be noted that this same report, with the same figures, was presented by the PNP Director General and TF Usig Chief on December 15, 2006 during the Human Rights *Kapihan* 2006 organized by the Philippine Working Group for Regional Human Rights Mechanism.



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## Status of Cases of Extrajudicial Executions (as reported by the PNP)



-  **(19 cases filed, 1 case solved; 17 at large suspects, 1 arrested & 1 killed suspect)**
-  **8 were believed to be perpetrated by CPP/NPA (8 at large suspects)**
-  **7 cases involve military elements as suspects – 4 military, 3 military assets (6 cases filed; 1 suspect arrested)**

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PNP and the AFP's sincerity in implementing the Alston recommendations is highly doubtful, as not only shown by the doubtful statistics presented above, but also because there have been no changes in the National Internal Security Plan's "holistic strategy."

## International attention

The seriousness of the country's human rights condition cannot be underplayed; in fact, it has already become an international concern. After the UN mission in February 2007, a series of international fact-finding missions followed suit. The Inter-Parliamentary Union (IPU) conducted its own investigation, in aid of a policy statement, on the Philippines during its general assembly

GLO BALISASYO

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ARROY KO tinig na na

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TRACY PABICO





TRACY PABICO



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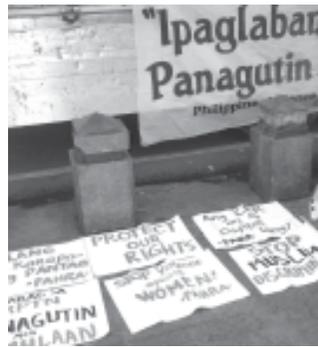
JAY AZUCENA



ALYANSA TIGIL-MINA



PHILRIGHT



JAY AZUCENA



VANESSA RETUERMA



ITANONG SA PANGULO!  
 G MO KAPAYAPAN ANG BITING  
 GAWA MO'Y MILITARISASYON  
 SA MINDANAO?



Kalayaan  
Katarungan  
Kamapang  
pantao

Philippine Alliance of  
Human Rights Advocates



**PAHRA**

in Bali, Indonesia in April. On the same month, the Japan-based Human Rights Now investigated cases of political killings in the Philippines as a prelude to its international solidarity advocacy campaign. The US Congress Committee on Foreign and International Affairs also made an inquiry in aid of foreign policy change for the Philippines. In June, the European Union (EU) sent a high level mission that would assess the government's capability to solve killings. In August, the Paris-based International Federation of Human Rights arrived in the country to look into the issue of human rights, terrorism and torture. In October, the Second Hongkong Mission for Human Rights and Peace in the Philippines, composed of legislators and representatives of international human rights organizations, deplored that "little progress" has been made by the Arroyo administration on the issues and cases of involuntary disappearance and summary executions since the first Mission in July 2006.

All these missions called for an immediate solution to human rights violations, reminding the Philippine Government that its international reputation would be in tatters unless it acts decisively. They pointed out that the raging 'plague of human rights violations' were caused by the following:

- Low rate of conviction leading to further cultivation of the culture of impunity;
- Fear of retaliation among the victims and witnesses;
- Flawed witness protection program coupled with infirmities in the mechanisms, which lack the necessary confidence measures that could guarantee security and protection to victims and witnesses;
- People's lack of confidence and trust in the mechanisms;
- Lack of technical and forensic capabilities of the investigative agencies; and
- Questions on the enforcement of laws.

These various missions brought to the attention of the rest of the world the appalling human rights situation in the Philippines. Reports were forwarded to various governments and UN agencies for action. One of the results of these missions is the decision of the



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## Total Number of Political Detainees/Prisoners (PDs/PPs)

National Capital Region	75
Southern Luzon	22
Northern Luzon	11
Central/ Eastern Visayas	34
Western Visayas	8
Northern/Southern Mindanao	33
Western/Central Mindanao	40
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Total no. of minors	6
Total no. of elderly	8
Total no. of women	7
Total no. of sickly	9
Total no. of Moro	66

TFDP Summary Report as of December 2007

United States to tie two major conditions on its military aid: 1) that the Philippine government will implement the Alston recommendations; and, 2) that the US must be assured that Philippine military is not engaged in acts of intimidation and violence against members of legal, civic, and religious organizations advocating human rights.<sup>11</sup> The EU has officially transmitted to the Philippine government its commitment to provide technical assistance that will create mechanisms and help resolve the issue of extrajudicial killings.

To date, the Task Force Detainees of the Philippines (TFDP) has documented 67 cases of extrajudicial execution from January to December 11, 2007; 28 victims of torture; 98 victims of illegal arrest and detention; and 4 cases of harassment involving 11 barangays. The Families of Victims of Involuntary Disappearance (FIND) recorded 36 victims of involuntary disappearance in 2007.

There are a total of 223 political detainees/prisoners languishing in jail. Six of them are minors, eight elderly, and seven are women. Significantly, 66 of the the political detainees are Muslims.<sup>12</sup>

Taking its cue from international groups, the Arroyo Administration went on the offensive to salvage its tarnished reputation. It has

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claimed instituting mechanisms to resolve the issue of political killings in the country. In the wake of the series of unexplained killings, the president issued Administrative Order 157 “creating and independent commission to address media and activists killings.” What would become known as the Melo Commission was tasked to investigate the cycle of human rights violations, with priority on the media and activist killings, and to recommend to the President both policy and action that will break the cycle.

No less than Gloria Macapagal-Arroyo vowed in both local and international fora that the UN recommendations will be implemented, while claiming that extrajudicial executions are not a policy of her administration and will not therefore be condoned. <sup>13</sup> *“The killings of political activists and members of the media are human rights violations and finding a definitive solution to these killings is of the utmost priority of this administration,”*<sup>14</sup> the president announced.

Through A.O. 181, the president gave marching orders to all units of the AFP and various investigative agencies to closely coordinate with the courts to ensure perpetrators are not only identified but prosecuted and convicted. She ordered the creation of special courts to handle HR cases and instructed the military to conduct internal probes among their ranks.

## **Perfidy**

But in a move that can only be interpreted as perfidious, she signed Executive Order 197 on September 25, 2007, instructing the military to observe safeguards against disclosure of military secrets and undue interference in military operations inimical to national security. It is a disclosure policy that restricts the release of military documents classified as part of national security even as the information is vital to the resolution of pending cases. Amid voluble pronouncements of ending political killings, E.O. 197 exposes the government’s lack of sincerity in resolving the deteriorated HR situation in the country.

Following the bomb explosion at the Sandigan Complex in



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November 2007 (which claimed the life of Basilan Rep. Wahab Akbar), the president issued E.O. 211 creating a high level task force (Task Force 211) to resolve problems of political violence and extrajudicial killings. This led to hasty operations against alleged Abu Sayyaf Group (ASG) elements operating within Metro Manila. TF 211 also implicated *Anak-Mindanao* Partylist Representative Mujiv Hataman and the former Congressman of Basilan, Jerry Salapudin, in the bombing. Both Moro leaders were summarily demonized by insinuating that their actions were ‘within the ambit’ of the ASG and thus within the ‘terrorists’ network.

The PNP and the AFP concluded that the Congress bombing incident was a terrorist attack. But within knowledgeable quarters, the story goes that the Batasan bombing was connected to the July 10 beheading of 10 Marines in Lamitan, Basilan who were in pursuit of the kidnapers of Catholic priest Giancarlo Bossi. It is believed that the bombing was payback for the soldiers whose beheading was allegedly ordered by Congressman Akbar.

## Displacement

The same pursuit operation and subsequent military offensives left behind thousands of displaced residents, who fled their villages for fear of being caught in the crossfire or becoming targets of reprisals. 2,293 residents from eight (8) barangays of Al-Barka, three (3) barangays of Sumisip and two (2) barangays of Tipo-tipo sought refuge at various centers.

### LIST OF AFFECTED BARANGAYS , NUMBER OF FAMILIES WITH THE CORRESPONDING EVACUATION CENTERS<sup>15</sup>

	# OF FAMILIES	EVACUATION CENTER
<b>1. Municipality of Al-Barka</b>		
Guinanan	236	Manunggol, Magkawa, Tipo-Tipo Proper, Lamitan, Isabela City and Pagtawanan
Linuan	156	Limbo-Upas, Magkawa, Tipo-Tipo Proper, Manunggul and Pagtawanan
Makalang	178	Bato, Bohelebeng

Danapa	189	Bato, Bohelebeng and Bohe Tambak
Kailih	237	Bato-Bato, Tipo-Tipo Proper, Lamitan City, Isabela City and Pagtawanan
Sitio Bakisung Cambug	89	Cambug Proper and Apil Apil
Kinukutan	158	Amaloy and Matata
Bohe Piang	192	Tipo-Tipo Proper and Kuhun
<b>2. Municipality of Sumisip</b>		
Baiwas	188	Piggery, Mangal and Baag
Sitio Irelley, Brgy. Central Sumisip	132	Sitio Baag, Guing-Guing Proper and Brgy. Central Sumisip Proper
Kaupamatsukan	184	Piggery, Mangal, Brgy. Central Sumisip Proper
<b>3. Municipality of Ungkaya Pukan</b>		
Baguindan	187	Tipo-Tipo Proper
Silangkum	173	Tipo-Tipo Proper
<b>TOTAL</b>	<b>2,299</b>	

Source: PAHRA

In the island of Mindanao, victims of the military campaign against the communist movement and the Moro secessionist groups are not only civil society organizations but ordinary civilians, particularly women, children and the elderly. Balay Rehabilitation Center, a human rights organization that monitors cases of internally displaced persons, reported that from January to March 2007 alone, around 18,000 people in Midsayap, North Cotabato were displaced from their villages due to the intermittent clashes between the Moro Islamic Liberation Front (MILF) and government forces. TFDP has documented 26 cases of forced evacuation involving 110,191 internally displaced persons (IDPs) or 22,038 families in 2007.

## Judicial activism

The year 2007 also witnessed initiatives of judicial activism in the Supreme Court. On March 1, the high tribunal issued Administrative Order No. 25-2007, entitled "Designation of Special Courts to Hear, Try and Decide Cases involving Killings of Political Activists



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and Members of Media.”

Following the judicial summit for all judges called for by the Philippine Judicial Bar Council to discuss and unite on possible mechanisms related to extra-judicial killings in mid-July, SC Administrative Order 25 (series of 2007) was issued to determine what constitutes political killing. Primarily, the AO considers the following factors: 1) the political affiliation of the victim, 2) the method of attack, 3) involvement (or acquiescence) of state agents in the commission of the crime.<sup>16</sup>

In August, Chief Justice Reynato Puno called for a National Summit on Extra-Judicial Execution and Enforced Disappearance “to prevent losing eye contact with [the] killings and disappearances, revive [its] righteous indignation and spur [a] united search for the elusive solution to this festering problem.” Among its objectives were:

- ☞ *To search for wholistic solutions and provide inputs to the Supreme Court in its objective to enhance existing rules, or promulgate new ones, both adjudicative and non-adjudicative, in the protection and enforcement of constitutional rights, including the protection of witnesses;*
- ☞ *To examine the concept of extrajudicial killings and enforced disappearances pursuant to the standards provided for by local and international laws, including United Nations instruments;*
- ☞ *To revisit the rules of evidence such as hearsay, circumstantial, forensic and the like, as well as rules on police investigations and evidence gathering; and*
- ☞ *To explore more remedies for the aggrieved parties aside from the writ of habeas corpus.<sup>17</sup>*

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The Chief Justice lamented the dilution of expectations that the political branches of government could best protect human rights.

Studies by the SC point out that these diminished expectations are caused by the pervading biases of elected officials to favor what is popular rather than favor the vindication of human rights that usually involve the powers-that-be. Officials usually balk at decisions that would displease powerful constituencies. They are sometimes more interested in high profile issues or those with great impact on the larger number of their constituents. Rarely would officials respond to issues that affect the marginalized, because these are considered 'low profile,' affecting only those people "dismissed as the invisibles of society."<sup>18</sup> The Chief Justice pointed out:

*The time has come to say less and do more... [I]n the crusade to protect constitutional rights there is no room for neutrality. They who seek to remain in the safety of the sidelines when human rights are under assault shall be condemned by history into irrelevance.*<sup>19</sup>

## **Writ of Amparo and Habeas Data**

Guided by the principles of upholding the constitutional right to life, liberty and security, the Court *en banc* approved the draft Rule on the *Writ of Amparo* on September 25, 2007: providing "a remedy available to any person whose right to life, liberty and security is violated or threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity." The rule protects people from extralegal killings, enforced disappearances and threats thereof. Taking effectivity on October 24, the rule essentially empowers the courts to grant judicial orders for the protection and safeguard of one's right to life.

With the remedies readily available, victims' groups assisted by human rights and lawyer's organizations are now filing for the said petition in the Court of Appeals. First among the test cases (filed on October 24, the day the rule on the writ of Amparo took effect) were of the two disappeared University of the Philippines students Sherlyn Cadapan and Karen Empeño along with farmer Manuel Merino, and that of brothers Raymond and Reynaldo



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Manalo. It is believed that *Amparo* “removes from authorities the defense of denial, order them to take more action to solve killings and disappearances, and demand from the authorities more action and authorities.”<sup>20</sup>

As a counter-measure to Presidential EO 197, the high court disclosed in November the drafting of a new rule being finalized by the SC Committee on Rules, the Writ of *Habeas Data*. According to Chief Justice Puno, the upcoming writ would enable a persons to find out what information are collated about them by the police or the military and other law enforcement agencies, and the use and purpose of such information, by invoking ‘the right to truth.’ It would strip away the ‘mystery’ surrounding the fate of the victim. It would shed light on the whereabouts of the *desaparecidos* and would give hope to the search for justice.

## Conclusion

The failure to resolve cases of HR violations, particularly those that are civil and political in nature, has always been attributed to “State Impunity.” State actors are presumed to have been in the regular performance of their official duty or functions even as their acts perpetuate unjust conditions. Such ‘presumption of regularity’ has transmitted mixed signals to the public as to the determination of the Arroyo administration to put a stop to HR violations. While the administration promised to go for ‘zero political violence,’ it is swift in building blockades to the search for truth and justice. It boasts of a strong republic and lively democracy, yet it calls all dissenting opinions as threats to national security.

Even with the conviction of the judiciary to resolve civil and political rights violations, the situation portends of massive violation of rights. The National Internal Security Plan continues to be the priority of this administration. To make the NISP seem relevant, threats of destabilization are continually broadcast. Through the Human Security Act, no one will be immune from surveillance and wiretapping.

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a coddler of terrorists. The media covering the Manila Peninsula siege on November 29, 2007 had first-hand experience in this. The handcuffing, interrogation and illegal arrest of journalists was defended by the administration as part of the standard police operating procedure to determine involvement in an act that 'threatened national security.' Such actions, which are part of the continuing and escalating assaults on people's rights and civil liberties, if not immediately challenged, will soon become part of the country's accepted political environment.

After the Manila Peninsula incident, rumors that factions of the military and the New People's Army will stage acts of insurrection and terrorism were circulated. This was done to foil legitimate mobilizations being planned by civil society organizations. In December, Congress sought for the reenactment of the Anti-Subversion Law, presumably to get rid of the rebels and further strengthen the existing anti-terror law. In line with this, the Executive department resurrected the proposal of a National ID System.

Mixed signals occupy the landscape for the promotion, protection and fulfillment of human rights in the Philippines. From all indications, this administration is becoming the very obstacle to its obligation, because of its unwillingness to resolve HR violations.

## NOTES:

- <sup>1</sup> Philip Alston. Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions: Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Rights to Development (advanced edited copy). 2007.
- <sup>2</sup> Philippine Daily Inquirer. July 16, 2007
- <sup>3</sup> Ibid.
- <sup>4</sup> Ibid
- <sup>5</sup> Office of the President. Executive Order 493. January 17, 2006.
- <sup>6</sup> E.O 493. Section 3.



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In a  
Coercive  
Environment:  
Nursing a  
Culture of  
Fear and  
Breeding  
Tolerance to  
Impunity



- 7 Ibid. Section 4
- 8 Philip Alston. Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions: Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Rights to Development (advance edited copy). 2007.
- 9 Jose Manuel Diokno. Manila Times, July 15, 2007.
- 10 Philippine Daily Inquirer. Nov. 29, 2007
- 11 Philippine Daily Inquirer. November 6, 2007
- 12 Task Force Detainees of the Philippines. Statistics Update (January 2007-December 11, 2007).
- 13 Philippine Daily Inquirer. December 13, 2007.
- 14 Manila Standard Today. July 12, 2007
- 15 PAHRA Report on the Basilan Evacuation. August 6, 2007.
- 16 Manila Standard Today. July 12, 2007
- 17 Supreme Court, Republic of the Philippine. Summit Guidelines. National Consultative Summit of Extra Judicial Killings and Enforced Disappearance – Searching for Solutions. Manila Hotel. July 16-17, 2007.
- 18 Chief Justice Reynato Puno. A View from the Mountaintop. July 16, 2007.
- 19 Ibid
- 20 Philippine Daily Inquirer. October 25, 2007.

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***The author is the Secretary-General of the Philippine Alliance of Human Rights Advocates (PAHRA). Views expressed in this article reflect the author's opinions.***