

***SUBMISSION by the Non-Government Organization,  
KARAPATAN Alliance for the Advancement of People's Rights  
Related to the PHILIPPINES for the Upcoming  
Universal Periodic Review First Session April 2008***

This report is being made by KARAPATAN Alliance for the Advancement of People's Rights, a national human rights NGO in the Philippines documenting and investigating cases of human rights violations as well as assisting victims of such violations. This report is being submitted to the OHCHR for information on the Philippine government with recommendations for the improvement of the human rights situation in the country.

KARAPATAN, in consultation with its member organizations as well as other related organizations in the Philippines is submitting this report for the Universal Periodic Review of the Philippine government in April 2008. (Please see **attachment 1** for the organizations supporting this submission).

**Continuing human rights violations under a national policy**

The Philippine government has not fulfilled its obligations, commitments and pledges to protect and promote human rights. Despite its formal commitment to or legal ratification of various international instruments, its enactment of a few legislative and executive measures, and even despite its belated condemnation of extrajudicial killings, the Filipino people are still subjected to continuing gross and systematic human rights violations amidst an atmosphere of impunity.

The Arroyo government's current counterinsurgency program, particularly *Oplan Bantay Laya* (OBL or Operation Freedom Watch) and its target to wipe out the New People's Army by 2010 has resulted in the persecution and assault of leaders and members of the legal democratic movement, as well as other organized and unorganized civilians. Massive troop deployment and military operations in the rural areas from 2003 to the present have virtually imposed a reign of terror, affecting the regions identified as OBL priority areas, namely Central Luzon, Southern Tagalog, Bicol, Eastern Visayas and Northern Mindanao.

**Measures taken by the Executive, Judicial and Legislative branches**

The Arroyo administration, the Armed Forces of the Philippines (AFP), the Philippine National Police (PNP) especially through its Task Force Usig - belatedly mandated by Pres. Arroyo to purportedly investigate political killings - and other government agencies like the Inter-Agency Legal Action Group (IALAG), the Department of Justice (DOJ), the Government of the Republic of the Philippines – Monitoring Committee (GRP-MC) and the Department of Social Welfare and Development (DSWD), still deny any accountability, even after military involvement had been consistently and credibly pointed out by various independent reports, including that of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions and even the Melo Commission.

To date, none of the real perpetrators in the killings and disappearances documented by KARAPATAN has been convicted and punished, reflecting not only a failure of the criminal justice system to protect human rights but more so the resolve of the Arroyo administration to put an end to this outrage. From the execution, investigation, up to the prosecution of complaints of abuses, the perpetrators – the state security forces – seem untouchable.

Several victims who survived killings, abduction or torture have made efforts to hold accountable the perpetrators by filing criminal and civil cases with the government prosecutors in the courts, and in the government watchdogs. These cases are, however, easily dismissed or are dragging in court. One such case is that of human rights worker Eden Marcellana and farmer leader Eddie Gumanoy who were abducted and summarily killed in April 2003. The families have tried every single possible domestic remedy in vain. The Appeal to the Office of the President against the Justice Department's dismissal of the charges against an identified military officer under the direct command of then Col. Jovito Palparan

remains unresolved to this day even as the complaint before the UN Human Rights Committee in March 2006 remains pending.

Hundreds of families of victims of killings and disappearances have filed their complaints with the national Commission on Human Rights (CHR), but for the most part, the institution has failed to thoroughly and consistently investigate and make anyone accountable. Even the monetary assistance extended by CHR to victims' families involves a tedious process.

The executive branch had issued rhetoric on the "strengthening" of the Presidential Committee on Human Rights (PCHR), the Witness Protection Program, inter-agency coordination for human rights, increased penalties for perpetrators of killings, the creation of "99 special courts" among many others, but none of these have sufficiently materialized nor have led to any concrete results for the attainment of justice for the victims and their families.

Meantime, government continuously refuses to act on the human rights violations cases filed before the Joint Monitoring Committee (JMC), a mechanism in the landmark agreement it signed with the National Democratic Front of the Philippines – the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL) – by unilaterally declaring that the convening of JMC meetings to discuss these complaints is dependent on the resumption of the long-stalled formal peace negotiations between them. (*Attachment 2*).

To provide remedy to victims who are faced with no other legal recourse for justice, the Supreme Court recently issued the Rules on the Writ of Amparo (*Attachment 3*), as one of the concrete initiatives it made as a response to the default and even complicity of the political branches of government. So far, it has proven useful with the successful surfacing of 2 victims (*Attachment 4*) abducted and tortured separately by government soldiers in Mindanao. However, these 2 cases do not as yet establish a trend on the Writ's effectiveness and practicality especially in the light of so many other hundreds of victims who are disappeared, tortured, threatened and labeled. Besides, the writ is only remedial, and it needs to be seen whether it can be preventive in the long term, given that the penalty for defiance is mere contempt and given the obstructionist tactics of security forces.

This early, the executive branch contradicted the Supreme Court's measures when Arroyo issued Administrative Order 197 (*Attachment 5*), which provides for safeguards of military secrets and against interference in military operations. This is now being invoked by the military against petitions for search in military camps and opening of military reports and data for victims of disappearance in the Writ of Amparo hearings.

### **Human Security Act of 2007 (Republic Act 9372) or the Anti-Terrorism Law (*Attachment 6*)**

Over and above still existing repressive laws and jurisprudence and amidst a climate of impunity on violations being blamed on state forces, the Arroyo administration has enacted the Human Security Act (HSA) of 2007 or the Anti-Terrorism Law which violates provisions in the 1987 Philippine Constitution Bill of Rights, the 1966 ICCPR and the 1948 Universal Declaration of Human Rights and other international covenants as well as the 1998 GRP-NDFP CARHRIHL.

The HSA definition of "terrorism" is so broad and vague and extends even to peaceful protest actions critical of government as acts that "create extraordinary fear and panic." The law legalizes warrantless arrests even on dubious grounds, and extends the period of detention without charges even beyond three days. The terrorist branding of an organization also treats all its members guilty by association. These provisions violate the right to due process and presumption of innocence. It also poses as a danger to individual and collective rights of the people, such as the right to peaceful assembly and the right to form unions. Press freedom and the right to freedom of expression are also threatened as journalists may also be targeted.

Meanwhile, the Arroyo administration excludes among its priority bills the proposed law penalizing enforced disappearance, many versions of which have been filed in the House of Representatives since

2002. The proposed bill against torture has been long pending. Another pending bill is the indemnification of victims of the Marcos dictatorship, the compensation funds for which can no longer be accounted for.

The Philippine government has not ratified the Convention for the Protection of All Persons against Enforced Disappearance, and the Convention against Torture and other Cruel Inhuman or Degrading Treatment or Punishment.

**KARAPATAN also notes that the Philippine Government has not made known publicly the concluding observations of the 79<sup>th</sup> session of the UNHRC as instructed to it by the Human Rights Committee when the latter reviewed the Philippine government's compliance to the ICCPR, nor has the government made a reply to said observations which it should have submitted to the Committee on November 1, 2006. Further, KARAPATAN notes the following provisions in the ICCPR which the Government must continue to address.**

#### **Right to Self-Determination (Article 1)**

Consistent with the US War on Terror, the Arroyo government continues its Total War Policy in Mindanao and Sulu targeting the Abu Sayyaf, but more so the Moro Islamic Liberation Front which is engaged in the struggle for autonomy. This policy has resulted in massive displacement and loss of livelihood of the Moro people in the areas militarized. US military advisers have set up several permanent structures in Mindanao, and involvement of American soldiers was reported in several military operations.

#### **Right to Life (Article 6)**

The Philippine Congress abolished the death penalty in 2006, yet the right to life continues to be disregarded. Extra-judicial killings of activists and other civilians by state security forces continue, with 62 victims from January to July 31 this year. Karapatan documented a total of 886 victims of political killings from 2001 to July 31, 2007. Among these, 96 were women, and 391 victims belonged to organizations and who can be considered as human rights defenders.

Even media workers are not spared, with 53 victims killed under the Arroyo regime according to the National Union of Journalists.

Among the recent victims (March 2007) were peasant leaders Arthur Orpilla and Dionisio Battad who were threatened and coerced by the army unit that had based in their village. After reporting to the military, the two victims were found dead, their bodies bore torture marks and were dumped on a riverbank in another town. (*Attachment 7*)

#### **Right Against Torture And Cruel, Inhuman Or Degrading Treatment Or Punishment (Article 7 and 10), Arbitrary Arrest And Detention**

Survivors of abductions in various areas nationwide attest to the culpability of the military in the violations, using government property and facilities to carry out the crimes. For the period January to October 2007, Karapatan documented 29 victims of torture in 18 incidents. This is in violation of Republic Act 7438, which defines the rights of a person arrested or detained and the duties of the arresting or detaining officers.

As of October 31, 2007 there remain 235 political prisoners (*Attachment 8*), 29 of whom are women, in different prisons and detention centers throughout the Philippines. About 204 of them were arrested by the Arroyo government. Many were arrested without a warrant, and charged with criminal cases instead of political ones. Still others remain in jail despite repeated promises or claims of release pledged by the Arroyo government in the peace negotiations.

In May this year, Berlin Guerrero, 46, a pastor of the United Church of Christ in the Philippines was abducted by state agents and brought to a safehouse where he was severely tortured, humiliated and interrogated. The day after he was abducted, state agents brought Guerrero to the police headquarters where they showed him a warrant for his arrest for a 1990 murder charge. He remains in detention. (*Attachment 9*)

A similar case in 2006 is the group of five peasant organizers who were abducted, tortured and detained incommunicado. They were charged with rebellion and remain in jail in Tagaytay City. (*Attachment 10*)

Three victims of two separate abductions in Bulacan province in 2006 gave similar testimonies of being brought from one military camp to another in Luzon, including to Fort Magsaysay, headquarters of the 7<sup>th</sup> Infantry Division in Central Luzon. The victims gave the account of their horrifying ordeal in the hands of military officials whom they could identify, including now retired Maj. Gen. Jovito Palparan Jr. They also saw others being held incommunicado and undergoing torture in safe houses inside military camps. (*Attachment 11*).

Other victims of abduction and arbitrary arrests confirm a pattern of interrogation, torture, and threats to be killed or sent to jail if they report on what happened to them, interspersed with offers of money and freedom if they cooperate and turn in other leaders or members of the NPA.

#### **Disappearances ( Articles 6, 7, 9, 10, 15, 16)**

From the time Arroyo became president up to July 31, 2007, there have been 179 victims of enforced or involuntary disappearance, of whom 29 are women. Sixty one of the victims are human rights defenders belonging to various cause-oriented organizations. In 2007 alone (January to October) Karapatan documented 19 cases of disappearances victimizing 26 persons. (*Attachment 12*)

The case of Jonas Joseph Burgos, 38, son of the late press freedom fighter Jose Burgos Jr. has exposed both government culpability as well as efforts to cover it up. The military refused to fully release the military investigation report on the involvement of military elements, while the PNP even presented false self-confessed NPA members who claimed Jonas was “punished” by the NPA. Among those presented was a leader of a transport group who was among the desaparecidos since 2006, and is believed to be under duress by the military. The family of Burgos has practically approached every possible legal forum to seek justice but he remains missing to this day (ATTACHMENT 13)

#### **Unlawful Attacks On Honor And Reputation And Incitement To Violence Against One’s Person (Articles 17 and 20)**

The government’s persecution of progressive party-list groups led to arrests, arbitrary detention and harassment of known progressive legislators, based on unfounded rebellion and murder charges. Anakpawis (Toiling Masses) party-list Representative Crispin Beltran was detained for more than a year on spurious charges of rebellion which included five other party-list representatives and leaders of the legal democratic movement. The Supreme Court eventually dismissed the case and chided the Department of Justice prosecutors for pushing the politically-motivated filing of charges. Bayan Muna (People First) partylist Rep. Satur Ocampo was likewise detained on charges of multiple murders, which occurred while he was in detention during the martial law years. Trumped up murder charges remain against party-list representatives Teodoro Casiño (Bayan Muna), Liza Maza (Gabriela Women’s Party) and Rafael Mariano (Anakpawis), as well as various leaders of the legal democratic movement and the revolutionary underground.

The government has also recently admitted its participation in the arrest in August 2007 of Professor Jose Maria Sison, the known founder of the Communist Party of the Philippines and present adviser of the NDFP in the peace negotiations. This also led to the blanket search of the NDFP office and houses of several members, consultants and staff to the NDFP peace panel, including the seizures of several files of the NDFP related to the negotiations and the monitoring of the compliance by both parties to the

CARHRIHL. All these arrests and violations were done at the inducement by the Arroyo government in complicity with the Dutch authorities in order to supposedly deal a blow to the communist insurgency in the country. However, the Dutch courts released Sison on the grounds that the charges imputed against him do not have sufficient basis and suggested the political motivation of the arrest.

### **Militarization In Rural And Urban Areas**

Government deployment of hundreds of uniformed and armed soldiers in rural areas and urban centers including Metro Manila had resulted in the harassment and intimidation of people's organizations in the rural and urban villages. Ostensibly for civic-action, the soldiers intensified the vilification campaign against activists and progressive groups, which they branded as "communist fronts" and enemies of the state. The fear caused by military presence in the areas even before this year's elections dissuaded many supporters of activist organizations from voting for partylist organizations in the polls. The militarization continues and is harassing and victimizing even ordinary citizens.

### **Displacement, Forcible Evacuation/Reconcentration Of Civilians (Article 12)**

For the period January to October 2007 based on reports gathered by Karapatan, military operations in the countryside included hamletting of 3,600 villagers and forcible evacuation or displacement of 7,542 individuals. The actual number could be much more because many cases have not been reported.

### **Rights Of The Child (Article 24)**

From 2001 to July 31, 2007, Karapatan has documented 59 children victims of extra-judicial killings and four victims of enforced disappearance. The latest and youngest victim is a two-month old boy who was abducted in October 2007 in Quezon province with his parents and grandparent.

In Mindanao, a nine-year-old girl was killed in an encounter between the government soldiers and the NPA. The military presented to the media the photo of the girl's body beside what was supposed to be her M16 rifle. The military officials had to retract their statement that the girl was a child soldier after the girl's family and the community protested and belied the military claim. An investigation of the Commission on Human Rights confirmed that the girl was not a child soldier but a civilian.

Reports to Karapatan indicated the following victims of violations of child rights for the period January to October 2007: right to participation (5); right to protection or safety to be provided by the state (20); and right to survival (7).

**In the light of government inaction on the past recommendations of Karapatan, we would like to reiterate the following recommendations also for the consideration by this Council (Please see attached recommendations)**