HUMAN RIGHTS

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Investigations and Fact-Finding Missions:

ASSERTING OUR HUMAN RIGHTS AND BREAKING IMPUNITY

PHILIPPINE HUMAN RIGHTS INFORMATION CENTER

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■ EDITORYAL

Maruming Laro

ANG PULITIKA ay isang laro. Madumi, mapanganib, at madugong anyo ng paligsahan.

Panahon pa ni Julius Caesar ng sinaunang Roma at marahil ay mas maaga pa, ganito na ang pulitika, isang drama na ang paulit-ulit na tema ay kasinungalingan, katrayduran, at karahasan.

Isa itong laro na ang kadalasang bihasa ay ang iilan, ang mga elitista ng lipunan. Isa itong laro na nilalaro sa ngalan ng masa ngunit lagi naman silang itsa pwera.

Sa tagisang ito, walang puwang ang integridad at delikadesa at higit sa lahat ang katotohanan. Ang katotohanan ay depende sa kung sino ang may lakas upang ipatupad at ipakalat ang kanilang bersyon ng mga pangyayari. Ang kahulugan ng mga salita at konsepto ay depende sa kung sino ang may pinakamalakas na boses.

Tingnan na lang natin ngayon itong nagaganap na sabong sa pagitan ni Pangulong Arroyo na handang gawin at bilhin ang lahat makapangunyapit lamang sa kapangyarihan at ng mga nasa oposisyon na desperadong sila naman ang makapwesto.

Ang kontrobersyang "Hello Garci" ay isang napakalaking pagkakamali sa bahagi ng administrasyon at isang napakalaking oportunidad naman para sa mga kalaban sa pulitika ni GMA.

Lalong ibinunyag ng krisis pampulitikang ito kung gaano kalasing sa kapangyarihan ang kasalukuyang umuokupa ng Malakanyang. Kung gaano ito kadesperadong manatili sa pwesto kahit na sagasaan nito ang mga pinakabatayang kalayaan at karapatan ng mamamayan.

Maging ang 'media' na haligi ng isang demokratiko at malayang lipunan ay tinakot at binusalan.

Hanggang ngayon ay hindi pa nga tapos magbayad ng gobyernong Arroyo sa mga opisyal ng militar, sa mga pulitiko, at maging sa mga kaparian para sa kanilang katapatan, suporta, at pagbabaon sa katotohanan.

Nitong nakaraang Pebrero, nakita rin natin kung paanong ang namumuong 'people power' na dati ring nagluklok kay Pangulong Arroyo ay naging 'destabilisasyon,' terorismo, sedisyon, banta sa seguridad ng bansa, at kataksilan sa bayan. At ang mga nagpasimuno rito ay hindi mga bayani kundi mga kriminal at traydor sa Konstitusyon.

Isang opisyal na rin ng pamahalaan ang nagbanggit na ang diperensya ng EDSA II sa katatapos na tangkang 'withdrawal of support' nitong Pebrero ay nagtagumpay ang una at nabigo ang ikalawa nang hindi sumama ang ilang susing opisyal ng militar.

Patunay lamang na kahit na sa ipinagmamalaki nating 'people power,' hindi naman talaga ang sambayanan ang mapagpasya kundi 'yung mga may hawak ng baril at pantustos na pinansiya.

Ibig sabihin lang, anumang ehersisyo ng demokrasya ay mananatiling huwad at tila paglalaro ng ahedres lamang sa pagitan ng mga elitista hangga't hindi nagkakaroon ng tunay na pang-ekonomiya at pampulitikang kapangyarihan ang karamihan sa ating mamamayan.

MGA BiKTiMA Ni 'GARCI'

Kalayaan at Karapatan sa Panahon ng State of Emergency

■ Ni **BERNARDO D. LARIN**

HANGGANG saan pwedeng gamitin ang kapangyarihan ng Estado upang protektahan ang sarili nito? Tama bang isantabi ang mga pinakabatayang karapatan at kalayaan ng mamamayan sa gitna ng bantang pampulitika laban sa inihalal na pamahalaan?

Hanggang saan din pwedeng gamitin ng mamamayan ang karapatan at kalayaan nito sa paghahanap ng katotohanan sa gitna ng kontrobersiyang kumukwestyon sa karapatang mamuno ng isang pamahalaan?

Ito ang mga importanteng tanong na iniwan ng pampulitikang krisis dulot ng kontrobersyang 'Hello Garci' na umabot sa sukdulan noong Pebrero 24 kung saan inaresto at tinanggal sa tungkulin ang ilang opisyal ng militar at pulis dahil sa tangkang pagbawi ng suporta sa gobyernong Arroyo at pagsama sa mga kilos protesta nung araw na 'yon.

Naging mabilis at mapagpasya ang tugon ng administrasyon sa tangkang pagagaw ng kapangyarihan. Agad inilagay ni Pangulong Arroyo ang buong bansa sa ilalim ng 'state of emergency' sa pamamagitan ng paglalabas ng Presidential Proclamation 1017. Kasabay ding inilabas ng Malakanyang ang General Order No.5 na nag-aatas sa militar at pulis na gawin ang nararapat upang mapanatili ang kapayapaan at masugpo ang nakaambang karahasan.

Ngunit malinaw din na ang ibinabang *state of national emergency* ni Pangulong Arroyo noong Pebrero ay deklarasyon ng giyera laban sa kalayaan ng mamamayan at kalayaan sa pamamahayag.

Isang malaking kabalintunaan na lumabas ang pahayag sa mismong araw ng paggunita sa anibersaryo ng EDSA People Power kung saan nabawi ng mga Pilipino ang kalayaang dalawang dekadang ipinagkait ng diktaduryang Marcos, kalayaang binili ng dugo ng libu-libong nagbuwis ng buhay noong panahon ng Martial Law.

Upang iligtas daw ang republika at ang nahalal na pamunuan mula sa diumano'y sabwatan ng mga pulitikong oposisyon, mga rebeldeng sundalo, at mga maka-kaliwang pwersa, marahas na binuwag ang mga rallies at hinuli ang mga lider nito, sinalakay at

Photo by CMFR

kinontrol ang pahayagang "Daily Tribune," at pinostehan ng mga sundalo ang mga pangunahing istasyon ng T.V. Sa loob din ng panahong ito, absolutong ipinagbawal ang anumang kilos-protesta lalung-lalo na sa EDSA Shrine at mga lugar malapit sa Malakanyang.

Kinasuhan din at agad na pinagdadampot ang ilang personalidad tulad nila Rep. Crispin Beltran ng Anakpawis at dating heneral Ramon Montaño na pinagsususpetsahang kasali sa mga nagplano at tumulong sa nabigong kudeta noong Pebrero 24.

Tinangka ngunit nabigong arestuhin ng mga pulis sila Reps. Satur Ocampo, Teddy Casiño, Joel Virador ng Bayan Muna, Liza Maza ng Gabriela, at Rafael Mariano ng Anakpawis dahil tumakbo sila sa compound ng Batasan kung saan hindi sila pwedeng galawin dahil sa kanilang legal immunity. Ngunit mahigit dalawang buwan ding mistulang bilanggo sa loob ng Kongreso ang lima na kalauna'y nakilala sa bansag na 'Batasan 5.'

Sa bisa rin ng PP 1017, binantaan ng gobyerno ang ilang miyembro ng media na tumutulong sa mga pwersang nais magpabagsak sa administrasyong Arroyo. Ipinahiwatig sa nasabing deklarasyon na ayon sa Artikulo 12, Seksyon 17 ng Konstitusyon, maaaring itake-over ng gobyerno ang mga pribadong institusyon kung naaayon sa interes ng publiko sa panahon ng *state of*

Kasumpa-sumpa: **ang pagbaon ng katotohanan sa likod ng iskandalong 'Hello Garci'.** Photo by AKBAYAN

emergency.

Agad ding nagpahayag ang mga opisyal sa Malakanyang na maglalabas ng 'guidelines' para sa mga miyembro ng media upang siguruhin na ang kalayaan sa pamamahayag ay hindi magamit ng mga elementong nagnanais magpabagsak sa pangulo.

Ayon pa kay Mike Defensor, chief of staff ng pangulo, hindi

> Malinaw na ang state of national emergency ay deklarasyon ng giyera laban sa kalayaan ng mamamayan at kalayaan sa pamamahayag.

malayong may masarang mga istasyon o opisina ng media kaya umapela siya sa mga mamamahayag na huwag 'palakihin' ang mga pahayag o statements ng mga kalaban ng pamahalaan at huwag mag-interbyu ng mga personalidad mula sa mga rebeldeng sundalo at komunista.

Sumunod na nagbabala sa media si General Arturo Lomibao, ang hepe ng Philippine National Police (PNP) at sinabing dapat silang sumunod sa 'standards' ng gobyerno sa kanilang pag-uulat. Idinagdag pa niya na may itatalagang grupo ang gobyerno upang busisiin ang laman ng mga editoryal, opinyon, at balitang ilalathala at ibo-broadcast ng media.

Lingid sa kaalaman ng marami, bukod sa pagsalakay sa Daily Tribune, sinibak din ang programang "Ngayon na Bayan" sa istasyong DZRJ dahil daw taliwas sa opinyon ng may-ari ang laman ng naturang programa. Ang may-ari ng istasyon ay si Ramon Jacinto, dating bayaw ni First Gentleman Mike Arroyo.

Oo nga't naging epektibo ang marahas at mapanupil na tugon ng gobyerno sa tangkang kudeta noong Pebrero, lalo naman nitong inilantad ang pagkadesperado ng administrasyong Arroyo na manatili sa Malakanyang. Ipinapakita ng mga aksyong ito na handang sagasaan ng kasalukuyang pamunuan ang mga pinakabatayang karapatan at kalayaan ng mamamayan para lang huwag itong maalis sa poder.

Pagtanggal sa PP 1017

Makalipas ang isang linggo, Marso 3, inalis ang PP 1017 ngunit hindi pa rin tinantanan ng gobyerno ang mga 'kaaway' nito sa media, oposisyon, at mga progresibong grupo.

Pormal na sinampahan ng kaso si Niñez Cacho-Olivarez, ang editor ng Daily Tribune at isang columnist nito. Ibinunyag din ni Raul Gonzales, kalihim ng Department of Justice (DOJ), na maaari ring sampahan ng kasong sedisyon ang pitong mamamahayag na nag-cover ng

***Sugod sa EDSA*: mga grupo ng abogadong tutol sa pagyurak ng karapatang pantao.**
Photos by AKBAYAN

MGA BiKTiM

stand-off sa Fort Bonifacio sa pagitan ng mga nagbabangayang Marines noong Pebrero 26.

Ikinagalit ng pamahalaan ang pagsasahimpapawid ng ilang istasyon ng TV at radyo sa panawagang 'people power' ng mga nagmamarakulyong Marines sa pamumuno ni Col. Ariel Querubin dahil sa pagkakasibak sa tungkulin ng kanilang pinuno na si Maj. Gen. Renato Miranda.

Kalagitnaan ng Marso, ibinunyag ni Sheila Coronel, director ng Philippine Center for Investigative Journalism (PCIJ) sa pagdinig ng Senado na ilang beses sinubukan ng mga pulis at ni Jonathan Tiongco, sound engineer na tumulong sa gobyerno nung kasagsagan ng Hello Garci controversy, na kumuha ng search warrant upang mahalughog ang opisina ng PCIJ.

Noon ding Marso 8, pisikal na binitbit at inaresto ng mga pulis si Akbayan Representative Riza Hontiveros-Baraquel at kasama nitong si Joshua Mata ng Alliance of Progressive Labor (APL) habang nagsasagawa ng pagkilos bilang paggunita sa Pandaigdigang Araw ng mga Kababaihan.

Sampung araw ang lumipas, hinuli rin si Dinky Soliman, dating kalihim ng Department of Social Welfare and Development (DSWD), at isang kasama niya habang payapang tumatawid sa Roxas Boulevard at nakasuot ng itim na t-shirt na may tatak na "Patalsikin na, now na."

Habang naglalakad, nilapitan sila ng mga pulis at hinanapan ng permit dahil nagrarally daw sila. Pinabulaanan nila ang akusasyon ng mga ito at sinabing naglalakad lamang sila at tinanong din nila ang mga pulis kung masama bang magsuot ng itim na t-shirt. Ganunpaman, dinampot pa rin si Soliman at isang kasama at kinuwestyon sa himpilan ng pulis dahil daw sa paglabag sa 'Public Assembly Act.'

Patunay lamang ang mga insidenteng ito na sa kabila ng pagpapawalang bisa sa PP1017 at pahayag ni Pangulong Arroyo na nasugpo na ang tangkang destabilisasyon, hindi tumigil sa pagbabantay ang gobyerno sa mga kilos at pahayag ng mga grupo at sektor na hayagang nananawagan ng pagbaba sa puwesto ng pangulo.

Mga Desisyon ng Korte Suprema

Ibinasura ng Korte Suprema ang Calibrated Preemptive Response (CPR) at kinastigo rin nito ang pamahalaang Arroyo dahil sa pagmamalabis sa pagpapatupad ng PP1017 tulad ng pagkaka-aresto ng ilang miyembro ng oposisyon tulad ni Randy David, sa marahas na pagbuwag sa mga kilos protesta, at sa pagkakasalakay ng pahayagang Daily Tribune.

Idineklara ring 'unconstitutional' ng pinakamataas na korte ang Executive Order 464 o ang utos ng Pangulo na bawal humarap sa pagdinig ng Kongreso ang lahat ng opisyal o kawani ng pamahalaan pwera na lang kung may pahintulot ng Malakanyang.

Sa harap ng sunod-sunod na mga pagkatalong ito, hindi pa rin umatras ang gobyerno at gumamit pa rin ng kamay na bakal upang patahimikin ang mga tao o grupong "banta" sa seguridad ng bansa at upang pigilan ang mga "mapanganib" na kilos-protesta.

Huling linggo ng Mayo nang dukutin ng mga di nagpakilalang kalalakihan ang limang opisyal at myembro ng Union of Masses for Democracy and Justice (UMDJ), grupong malapit kay dating pangulong

KTiMA Ni 'GARCI'

Mga mamamayang lumalaban sa kumikitid na espasyo ng kalayaan.

Joseph Estrada, habang sila ay nagpupulong sa isang bahay.

Kalaunan, napag-alamang ang lima ay hinuli ng mga ahente ng Intelligence Service of the Armed Forces of the Philippines (ISAFP) at mga pulis mula sa Criminal Investigation and Detection Group (CIDG). Isinagawa ang pag-aresto ng walang warrant.

Ayon sa tagapagsalita ng militar, ang pangunahing target ng paghuli ay si Ruben Dionisio na pinaghihinalaang miyembro ng New People's Army (NPA) at may misyong likidahin ang matataas na opisyal ng pamahalaan kasama na ang pangulo. Nadamay ang apat na tagasuporta ni Estrada dahil kasama sila ni Dionisio at may posibilidad na kasabwat sila sa balak na mga asasinasyon.

Makalipas ang ilang araw, iniutos ng DOJ ang pagpapalaya sa lima dahil sa kawalan ng malinaw na ebidensya. Ngunit hindi dito natapos ang kwento. Lumantad sa media ang tinaguring UMDJ 5 at ipinakita ang mga marka ng tortyur sa kanilang mga katawan sabay akusa sa mga militar at pulis ng paglabag sa kanilang mga karapatan.

Noon namang buwan ng Hunyo ay mga batuta at 'water cannon' ang sumalubong sa mga nagmartsang magsasaka sa Mendiola na ang tanging layunin ay singilin ang pamahalaan sa kapalpakan ng repormang agraryo sa kanayunan. Hindi rin nagtagumpay ang mga abugado sa pamumuno ng Integrated Bar of the Philippines (IBP) na makapagdaos ng programa sa tulay ng Mendiola dahil idineklara itong "no rally zone" ng mga awtoridad.

Patuloy at mahigpit pa ring ipinapatupad ang Batas Pambansa 880 kung saan galing ang polisiyang "no permit, no rally" laban sa mga pagkilos na kritikal sa gobyerno o sa mas simpleng pananalita ay 'yung mga protestang kumukwestyon sa legitimacy ng panunungkulan ni GMA bunsod ng 'Hello Garci controversy.'

Ang mga anti-demokratikong polisiya at mga paglabag na ito sa karapatang pantao ng administrasyong Arroyo ang tumawag pansin sa pahayagang New York Times upang maglabas ito ng obserbasyon na muling bumabalik ang Pilipinas sa madilim na yugto ng kawalan ng demokrasya at kalayaan.

Kung Tutuusin

Ang puno't dulo ng lahat ay ang kontrobersiyang 'Hello Garci'. Ang hindi masagut-sagot na tanong ay tutoo nga bang nandaya si Pangulong Arroyo upang maluklok sa kapangyarihan? Siya nga ba ang lehitimong inihalal ng sambayanang Pilipino noong Mayo 2004?

Ito pa rin ang usaping dapat harapin ng kasalukuyang pamunuan at huwag nang magtago sa kung anu-anong dahilan kesyo ang mga aksyon nito ay para sa interes, seguridad, kapayapaan, at kaunlaran ng bansa.

Huwag na rin sanang gamitin ang linyang sabwatan ng kaliwa at ng kanan upang mang-agaw ng kapangyarihan, matagal nang gasgas ito. Panahon pa ng rehimeng Marcos ginamit nang panakot ang lumalakas daw na 'insurgency' para ideklara ang Martial Law at supilin ang lehitimong protesta laban sa bumabahong pamumuno nito.

Noong pinatay sa Kongreso ang impeachment complaint laban kay Pangulong Arroyo dahil sa teknikalidad noong nakaraang taon, isinara na ng pamahalaan ang lahat ng demokratiko at legal na proseso para lumabas ang katotohanan.

Noong nagsimulang lumabas naman sa kalsada ang mamamayan, itinapat ang CPR at BP 880.

Noong namumuo at lumalakas ang panawagang "people power," ibinaba ang PP1017 upang kaagad maaresto ang mga pinuno nito, maging mga sibilyan at militar, at mapatahimik ang 'media' na may importante sanang papel sa pagbuhos ng suporta ng taumbayan.

Kahit na nagtagumpay sa ngayon si Pangulong Arroyo at mga kakampi niya na patuloy na hawakan ang pampulitikang kapangyarihan, hindi pa rin magkakaroon ng katahimikan at tunay na pagkakaisa sa bansa.

Tila multong hindi magpapatahimik sa administrasyon ang isyung Hello Garci sapagkat sa isang demokrasya, pundamental na usapin at sagrado ang karapatan ng mamamayang maghalal ng mga pinunong susundin nila.

At sa perspektibo ng karapatang pantao, isinusuko lamang ng mga tao ang ilan sa kanilang mga karapatan at kalayaan sa gobyernong tunay nilang pinili upang sila ay pamunuan.

Kaya dobleng sampal sa mga tao kapag nilalapastangan ang kanilang mga karapatan at kalayaan ng isang pamunuang may lamat ang mandato para lamang manatili ito sa pwesto. ■

Human Rights in Recent Supreme Court Rulings

Street parliament: **Akbayan partylist representative Etta Rosales.**
Photos by AKBAYAN

■ By **CARLOS P. MEDINA, JR.**

IN APRIL and May 2006, the Supreme Court decided on a number of cases eagerly awaited by the public because they affect fundamental rights of citizens and relate to very urgent matters of national interest. These decisions concern the following: (a) Executive Order No. 420, on the Unified ID System, decided on April 19, 2006; (b) Executive Order No. 464, on Legislative Investigations, decided on April 20, 2006; (c) the Calibrated Preemptive Response (CPR) Policy, decided on April 25, 2006; and (d) Proclamation 1017, on the Declaration of a State of National Emergency, decided on May 3, 2006. This article discusses what the Supreme Court said about human rights in these recent decisions. As taken up in the decisions, these rights, in particular, are the following: privacy, information, freedom of expression, free speech, free press, and the rights to peacefully assemble and petition the government for redress of grievances, and to due process.

The Right to Privacy: Unified ID System (EO 420)

This case focuses on the right to privacy. On April 13, 2005, President Arroyo issued EO 420 directing all government agencies, including government-owned and controlled corporations, to adopt a unified multi-purpose ID system. The EO covered all agencies which issued cards to their members or constituents, like GSIS, SSS, Philhealth, LTO, and PRC. Its purpose was to make existing ID card systems of government agencies less costly, more efficient, reliable and user-friendly.

Bearing in mind a 1998 decision of the Supreme Court which rejected a national ID system proposed by the Ramos government, many groups (including KMU, Bayan Muna, and church organizations) and concerned individuals questioned the constitutionality of EO 420 before the Supreme Court. They maintained, among others, that the EO violates the people's right to privacy because it allows access to personal confidential data without the owner's consent.

The Supreme Court, however, disagreed with them. It ruled that the unified multi-

purpose ID system does not violate the people's right to privacy. The Court said that the right to privacy does not prohibit government agencies from adopting reasonable ID systems, like the proposed unified ID system under EO 420. The Court noted that all these

years, many government agencies have been issuing ID cards and there have been no complaints from citizens that these ID cards violate their right to privacy.

The Court explained that some of these government agencies collect and show more data than what EO 420 requires. Under EO 420, the unified ID system requires the agencies to collect and record only the following 14 personal data: name, home address, sex, picture, signature, date of birth, place of birth, marital status, names of parents, height, weight, the prints of two index fingers and two thumbmarks, any prominent distinguishing features like moles and others, and tax identification number (TIN). But in the ID card itself, only the following information will be shown: name, home address, sex, picture, signature, fingerprint, agency number and common reference number. Therefore, compared to existing ID systems of government agencies, the unified ID system limits the data that can be collected, recorded and shown.

In addition, the Supreme Court said that unlike in existing government ID systems, EO 420 provides for safeguards to protect the personal confidential data of citizens. These safeguards include the following:

a. the data shall be used only to establish the identity of a person and shall be limited to the 14 personal data listed earlier;
b. the right to privacy shall be respected;
c. access to the personal data shall be strictly controlled;
d. the owner must agree personally or in writing for anyone to have access to the data;
e. the ID card shall have advanced security features; and
f. any change in the data must be based on the written request of the owner or under conditions prescribed by the agency issuing the ID card.

The Court also said that EO 420 applies only to government agencies that already issue ID systems under existing laws. It does not apply to other departments of government and to independent constitutional commissions, like the courts, Congress, and the COMELEC. Hence, it is not a national ID system, which will require the passage of a new law. The 1998 decision of the Supreme Court is, therefore, not applicable because the presidential issuance in that case, which provided for a national ID system without safeguards, was struck down by the Court for not being based on any law.

The Right to Information: Legislative Investigations (EO 464)

This case relates to the

right of the people to information on matters of public concern in connection with the power of Congress to investigate anomalies in government. In the exercise of its power to make laws, the Senate, through its various committees, conducts these investigations in aid of legislation which require the attendance of government officials and employees as resource persons.

On September 21-23, 2005 different Senate committees invited various government officials, including AFP officers, to testify in separate public hearings on the North Rail Project (with a Chinese corporation) and on the role of the military in the "Gloriagate Scandal" (alleged cheating in the 2004 presidential elections) and in the wire-tapping of the President (the "Hello Garci" case). The invited officials requested for postponement of the hearings, but the Senate refused. So on September 28, 2005, President Arroyo issued EO 464 which required senior public officials and senior officers of the PNP and AFP to first get the consent of the President before appearing in any congressional hearing.

Because of EO 464, many invited officials refused to appear in any of the Senate investigations for lack of presidential consent. In response, senators and various groups, like Bayan Muna, PDP-LABAN, IBP and the Alternative Law Groups (ALG), questioned the constitutional validity of EO 420 before the Supreme Court. They argued, among others, that EO 420 violates the right of the people to information on matters of public concern since it prevents the people from getting information about the alleged anomalies under investigation.

The Supreme Court agreed with them. According to the Court, EO 420 violated not only the power of Congress to conduct investigations in aid of legislation, but also the right of the people to information. Since the investigations are done in public, any presidential directive which limits disclosures of information in such hearings in effect deprives the people of information which are of public concern. Citizens are, as a result, denied access to information which they can use in making their own opinions on the subjects of the investigations. The Court said that it is in the interest of the state to have free political discussions so that the government may know and be able to respond to the people's will. But this is possible only if the people are properly informed on matters of public concern.

Rallyists led by Akbayan's Risa Hontiveros-Baraquel confront an anti-riot squad. Photos by AKBAYAN

The Right to Freedom of Expression, Assembly and Petition: CPR Policy

This case is about the right to freedom of expression and the right to peacefully assemble and to petition the government for redress of grievances. Between September 26 to October 6, 2005, several anti-government rallies in Metro Manila were violently dispersed by the police, resulting in injuries and the arrest of many rallyists. They were dispersed because they had no permits, which were required under BP 880, The Public Assembly Act of 1985. The police based their actions on the government policy of "no permit, no rally" and the rule of "calibrated preemptive response" (CPR) which were applied to implement BP 880. The leaders and organizers of the rallies went to the Supreme Court to question the constitutionality of BP 880 and asked the Court to stop the violent dispersals. They claimed that their right to freedom of expression and right to peacefully assemble and petition the government for redress of grievances were violated by the police actions.

The Supreme Court said that the right to peacefully assembly and petition the government for redress of grievances is, together with freedom of speech, of expression, and of the press, a right which is given primary importance and protection by the Constitution. It is because these are the rights which make democracy work, without which all other rights would be meaningless and unprotected. The Court, however, said that these rights are not absolute. They may be regulated, and BP 880 simply regulates when and where public assemblies may be held, and how they may be conducted. It is not an absolute ban on public assemblies.

Furthermore, the Court said that although BP 880 requires a mayor's permit to hold a rally, the permit can only be denied if the holding of the rally will result in a clear and present danger to public order, public safety, public convenience, public morals or public health. And if the rallyists cannot wait for a permit, under the law, they can hold the rally without any permit required in a freedom park which every city and municipality in the country must create within six months from the time BP 880 took effect in 1985. The Supreme Court, however, found out that only

Cebu City has declared a freedom park in compliance with BP 880. The Court, therefore, ruled that cities and municipalities which have not yet created any freedom park may not require permits for rallies in any public park or plaza in the city or municipality until a freedom park is declared.

Specifically on the CPR policy, the High Court said that CPR does not serve any valid purpose if it means the same thing as the maximum tolerance policy set forth in BP 880 (i.e., the highest degree of restraint that the police and the military shall observe during rallies or in the dispersal of rallies). But if CPR means something else, then it is illegal, since the law itself already mandates maximum tolerance as the policy to be followed by the authorities in handling rallies.

The Court also looked into the situation where, because mayors refuse to act on applications for a permit, rallyists are not able to produce permits when asked by police, as a result of which they are immediately dispersed. To address this situation, the Court said that as part of maximum tolerance, rallyists who can show the police that they have filed an application on a given date can, after two days from such date, hold a rally without having to show a permit, since the grant of the permit will be presumed under the law, and it will be for the police to show that the application has been denied before it may peacefully disperse the rally.

The Rights to Due Process, Peaceful Assembly, Free Speech and Press: Declaration of a State of National Emergency (PP 1017)

This case concerns the rights to due process, peaceful assembly, free speech and free press. On February 24, 2006, as the nation celebrated the 20th anniversary of the Edsa People Power I, President Arroyo issued Presidential Proclamation No. 1017 (PP 1017)

Urban poor women challenge president Arroyo's calibrated preemptive response policy.

declaring a state of national emergency. She said there was a conspiracy between communists and rightist forces to bring down her government with the help of some media people. On the same day, she also issued General Order No. 5 (GO No. 5) directing the PNP and the AFP "to immediately carry out the necessary and appropriate actions and measures to suppress and prevent acts of terrorism and lawless violence."

Immediately after the issuance of PP 1017 and GO No. 5, the government cancelled all anniversary celebration activities and revoked all permits to hold rallies given by local governments. Rallies without permits were violently dispersed by the police and some rallyists were arrested. The offices of the pro-opposition *Daily Tribune* were raided. The PNP warned it would take over any media organization that would not follow "standards set by the government during the state of national emergency." The police also arrested without warrants certain anti-government personalities.

A week after the declaration, the President lifted PP 1017 saying that the emergency has ended. By that time, however, many oppositionists, concerned citizens, and groups (e.g., KMU, IBP, and ALGs) had already filed petitions with the Supreme Court challenging the constitutionality of PP 1017 and GO No. 5. They claimed, among others, that PP 1017 and GO No. 5 violate the freedom of the press, of speech and of assembly.

The Supreme Court declared that PP 1017 did not give the police the power to conduct illegal searches or illegal arrests, or to violate the rights of citizens, and that the police committed illegal acts in the implementation of PP 1017.

The Court examined GO No. 5's directive for the PNP and the AFP "to immediately carry out the necessary and appropriate actions and measures to suppress and prevent acts of terrorism and lawless violence." The Court said that GO No. 5 is vague since there is no law defining "acts of terrorism". The absence of a definition may result in abuse and oppression on the part of the police and the military. Without such a definition, under GO No. 5, it is the President alone who decides what are acts of terrorism. This can lead to indiscriminate arrests without warrants, breaking into offices and residences, taking over media groups, and the prohibition and dispersal of anti-government rallies, all in the name of GO No. 5. These acts violate the right to due process under the Constitution. Hence, the Court declared that the "acts of terrorism" part of GO No. 5 is unconstitutional.

The Court also said that the dispersal of rallies and arrest of rallyists were illegal since they were just exercising the right to peaceful assembly. The wholesale cancellation of rally permits, without any showing by the government of a clear and present danger to the state, was a violation of the right to peaceful assembly. The raid on the *Daily Tribune* offices was plain censorship and violated freedom of the press. The Court emphasized that freedom to comment on public affairs is essential to the vitality of a representative democracy.

Conclusion

The Supreme Court has clearly taken a stand in favor of upholding the fundamental rights of citizens in these decisions, while also upholding governmental acts which it has determined to be reasonable. These rulings by the Court are now considered part of the law of the land. By coming up with these decisions, the Court has certainly strengthened the promotion and protection of human rights in the country. At the same time, the Court has also given notice to those in power that it will not allow the government to act in ways which violate rights guaranteed by the Constitution and by international human rights instruments. This reassuring position of the Supreme Court on the side of human rights is especially significant since grave political and economic problems and national emergencies continue to affect the country. For it is in difficult and trying times like these that fundamental human rights are most endangered and need the most protection, especially from the acts of those in power.

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Investigations and Fact-Finding Missions:

Asserting our Human Rights and Breaking Impunity

Assassination is the extreme form of censorship.
- George Bernard Shaw

... they came for the Communists
and I did not speak out
because I was not a Communist.
Then they came for the trade unionists
and I did not speak out
because I was not a trade unionist...
Then they came for me
and there was no one left
to speak out for me.
- Pastor Martin Niemoller

■ By **MAX M. DE MESA**

THE ONGOING spate of extra-judicial executions or 'salvagings'[1] perpetrated with impunity under the Arroyo government prompted civil society and the human rights community to form fact-finding missions. These fact-finding missions were done in the face of government and/or police pronouncements that their investigations could go no further without witnesses and leads. Even the Commission on Human Rights, in most incidents, just archived the cases. The unspoken sentiment from communities was that if any witness existed at all, that person would naturally be reluctant to give testimony, for fear of inviting reprisals. Such reluctance on the part of witness/es is understandable, especially with the widespread belief that the perpetrators are most likely death squads let loose by either the military or police with the sanction of higher-up government and military officials.

The pattern of the extra-judicial killings reveals that there are priority targets for extermination: the "left", thus making most of these killings political in nature. The "left", depicted by the military as primarily belonging to or associated with the New People's Army (NPA), are "the enemies of the state"[2]. This label is extended to all legitimate and legal organizations and institutions that are critical and/or opposed to government plans, programs and policies. In the countryside, this image is imposed upon people often coerced to attend these brain-washing sessions and dictated rallies (called "peace rallies"), as in Mexico, Pampanga[3] where 19 of 43 barangays have military detachments. People who express their just demands and seek redress through demonstrations and pickets are often the focus of coercive attendance, as in Towerville,

Photo by AKBAYAN

Bulacan[4]. Working within the framework of a Cold-War mentality and couched in a McCarthyistic, anti-communist language, the State and the military establishment, with Gen. Jovito Palparan, Jr. as the main spokesman, lend an atmosphere of legitimacy to the killings or, in the least, blunt and control the outrage towards these criminal acts. To deflect accusations of responsibility, government and military officials even insinuate that the left itself is killing its own.[5] Any outright condemnation of the crimes, open defense for the victims or even consistent principled stand for justice, democracy and human rights will be construed as sympathy to, if not direct link with, the perceived "enemy of the state". In such a coercive environment, the forced conclusion and enforced behavior therefore is that it is all right to eliminate, even physically, the "left".

Objectives and Obstacles

The Citizens' Council for Human Rights (CCHR), a broad-based human rights movement convened by the Philippine Alliance of Human Rights Advocates (PAHRA), recently organized Task Forces and Fact-Finding Missions (FFM) to investigate the extrajudicial executions[6], political killings and other serious human rights violations in Metro Manila,[7] Central Luzon[8], Negros[9] and Mindanao[10].

The main objective of investigating extrajudicial executions, political killings and other grave human rights violations is to collect sufficient evidence and to convince the needed witnesses so as to be able to file charges, convict the perpetrators and obtain justice for the victims. Ultimately, it is to break impunity.

Most of the incidents of extra-judicial executions have no witnesses, despite the latter's physical proximity to the killing, who could pin-point the perpetrator(s), like the following cases:

Antonio Adriales, leader of the peasant organization *Aguman Dareng Maldang Talagapagobra Queng Gabun* (AMTG) in Mexico, Pampanga, who was shot on January 10, 2006 near his home. At the time of the killing, his wife, Delia, and children were already preparing to rest for the night. Despite strong suspicions of who could be the killer visitors of Tony, they remained only that – suspicions – because no other proof could be produced.

Such a situation is not helpful to two more peasant

leaders who live in the same community as Tony. Before proceeding to Tony's house, the killers first knocked on the doors of these two peasant leaders, but the two were not in their respective homes. There would have been three executions that night. But it does not mean that the two peasant leaders can now breathe easier. The killers have not been caught, let alone convicted. They continue to hunt their victims with impunity.

Kathy Alcantara, leader-organizer of the *Pambansang Kilusan ng Makabayang Magbubukid* (PKMM), was killed mid-morning of December 5, 2006 in Brgy. Gabon, Abucay, Bataan. She was just a short distance from an on-going seminar of PKMM in Abucay Country Resort when she was gunned down by motorcycle-riding men. People who turned to look when they heard the shots were not in a position to recognize the killers who in the meantime had sped away.

Enrico Cabanit, peasant leader of UNORKA, was gunned down while in the Panabo City market, Davao del Norte, with his daughter, Daffodil, at 6 P.M. last April 24, 2006. Ka Eric was shot several times in the head, while his daughter was hit on her chest. The police consider the case "already closed" as their main suspect, identified from a cartographic sketch by "police assets," was later killed in Gen. Santos City. The "police assets" just happened to be in the area at the time Ka Eric was shot to death. One of the two witnesses interviewed by the fact-finding mission definitely said the dead police suspect was not the person who shot Ka Eric.[11]

There are cases, even with leads, when local government, police and military personnel frustrate the protection of human rights of victims, as in the following:

Tomas M. Paras, a rebel-returnee, had been a charcoal-maker for the last nine years until the day of his abduction and enforced disappearance in the hands of the military believed to be from the 70th IB PA in Baryo Site, Samal, Bataan. When Tomas' wife, Dorina, a rebel-returnee herself, sought the help of the Barangay Captain, the latter did nothing to help locate Tomas and ensure his safety, but did affirm that the military took him aboard an army truck. When Dorina was later told that Tomas was brought to the 24 IB Detachment in Kamacho, she sent her daughter but the latter was refused entry. Dorina is presently confused and worried over inconsistent information reaching her. One news was that Tomas was killed ("*Ginilitan sa leeg"*/His throat was slit). The other news was that her husband is still alive and is being used by the Army as a "civilian asset" in their military operations ("*Buhay. Kasama ng Army sa operasyon."*/ He's alive. He is with the Army in their operations.)

Audie Lucero, political activist of the Youth for Nationalism and Democracy in Samal, Bataan, was last seen alive in the company of military personnel at the Isaac & Catalina Medical Center (ICMC) at around 11 P.M. of February 12, 2006.

Rico Adeva, a community organizer of Task Force Mapalad was killed on April 15, 2006 while traveling with his wife, Nenette, from his home in Hacienda Defuego II, Silay City to Talisay City. Rico sustained ten gunshot wounds. Nenette was able to identify some of her husband's killers.[12]

Mario Domingo and four other farmer beneficiaries were fired upon by a group led by one Lito Silverio. Domingo and his companions were protesting why Silverio and his men were planting corn in the land that belonged to Task Force Mapalad to which the former belonged. Despite being in flight, Silverio's men pursued Domingo and shot him in the temple. Domingo died instantly. Even the police who came to the scene were fired upon.

There are cases of frustrated salvagings and massacres perpetrated by non-state actors but have been abetted by government officials, despite identified perpetrators. Examples are:

Marlon C. Maspat , a resident of Brgy. Sta. Monica, San Simon, Pampanga. On January 31, 2006, two gun-men (Oscar Romero, Jr. and Michael Arsenio) fired upon him. He was hit by a bullet, but was able to escape to safety. Romero and Arsenio had mistaken Marlon for someone else, someone who was involved in the killing of one of the notorious Batu brothers. The Batu brothers were leaders of a group which engaged in extortion, among others, to which Romero and Arsenio belonged. The Batu brothers' group are also known to be used by local officials during elections. Marlon has filed charges against the two with the police, but up to the time of the fact-finding mission, Romero and Arsenio were still freely roaming in the town.

Rolito Boltron is a farmer beneficiary in Hacienda Mulawin, Silay City, a recipient of a Certificate of Land Ownership Award (CLOA). On the evening of January 5, 2004, he other farmer-beneficiaries were in a tent guarding their awarded land. At 3:00 AM, they were suddenly roused by lights coming from a tractor. The farmers were fired upon, without provocation, as they were going out of the tent. Rolito was hit on the lower abdomen and would end up completely paralyzed. The perpetrators were identified as Joseph Lacson, the *encargado* of Hacienda Mulawin and the security guards hired by the former landowner. No one has been convicted of this crime.

Rogelio Areglo and other farmer beneficiaries, without provocation, were fired upon by personnel of Hacienda Minacalao, also in Silay City, last December 29, 2004. Areglo was hit with a bullet in his left abdomen. The other farmers were spared only because the perpetrators ran out of bullets. Areglo's companions were able to apprehend Ronilo de los Santos and Randy Batan while the other six other assailants, all of whom were known to the victims as men of Narciso Tam, were able to escape. De los Santos and Batan have been turned over to the police but the case has not yet been resolved.

Asserting our Common Humanity

The government and the military are primarily accountable for this spreading coercive environment and culture of impunity in which even non-state actors thrive. Non-state actors, such as landlords, would naturally be inclined to maintain close relations with the military and police to serve their own interests. The various forms of harassment and intimidation, with the acquiescence of authorities, could be but a prelude to more extra-judicial executions all over the country. This fear is all the more heightened with the recent allotment by Ms. Gloria Macapagal-Arroyo of one billion pesos for the decimation of the New People's Army.

There is also a crisis in human rights, as there is a crisis on the political plane. Extra-judicial executions, political killings and other gross human rights violations have been – and continue to be – perpetrated with impunity that these violations have not only divided people between those who have rights and those whose rights can be easily dispensed with, but have destroyed our belief in our common humanity. Our vulnerabilities have been infected by the virus of the communist bogey which in turn debilitates our capabilities to defend human dignity. More often than not, the outrage towards these killings have been partisan, i.e., cutting

through, among others, organizational, sectoral and ideological lines. Even the churches and churchpeople seem to be still held back by the "red scare" that killings of priests from the Philippine Independent Church do not draw open condemnation and solidarity from Catholic and other Christian churches and congregations. The psy-war of the Arroyo administration and of the military has managed to separate the middle and upper classes of Philippine society from the ordinary people struggling for their human rights and fundamental freedoms.

It is thus time to recall the statement that Pastor Martin Niemoller made during Hitler's attempt to decimate the Jews. If we do not respond now in solidarity with those whose dignity and human rights are assaulted, there may be no one else to come to our defense when our own dignity and human rights are assaulted.

Asserting our common humanity must be done in the face of all attempts to dehumanize us by violating our human rights. This must be done before both state and non-state authorities and entities, demanding accountability and responsibility respectively. And while priorities must be established, this assertion must be done in principle by all and for all.[13]

Conducting investigations and fact-finding missions with the broadest representative participation is a form of protest against this assault on our common humanity. Formation of such missions asserts not only our common concern, but also denounces and fights against all attempts to erode our dignity as human beings.

Searching for a breakthrough against impunity

Many, if not most, of the cases are frustrating due to the very slim, if any, chance of arresting the perpetrator(s) and bringing justice to the victims. We have seen above that difficulties and obstacles to resolving a case are numerous.

***Shouting to the obstinately deaf*: activists call for an end to the political mayhem.** Photo by AKBAYAN

But beyond fact-finding missions, there must also be an entity tasked to sift through the growing number of incidents of extra-judicial executions, political killings and other grave human rights violations and select those cases which could be pursued to resolution. There is a need to search for a breakthrough against impunity, either from a case of extra-judicial execution, political killing, torture or enforced disappearance. There must be a focus on those cases which have a high prospect of prosecution and conviction. This means the readiness and passion of lawyers, as well as witnesses, for this specific pursuit of justice. The security of survivor victims and witnesses must be sustainably assured and meticulously arranged. Material and financial needs have to be realistically and programatically obtained.

Complete disclosure and determined pursuit of evidence can be achieved if all concerned parties contribute to the building of evidence against the perpetrators. This is where cooperation and trust must be established between civil society, the non-government human rights groups and the Commission on Human Rights (CHR) without infringing on each one's independence and initiative. There must be an open exchange of investigation results. The CHR has privileged access to government and military officials, buildings and offices, as well as symbolic authority. Civil society and non-government human rights groups usually have deeper roots in communities where the violations have been perpetrated. They could also have more persuasive influence to draw out fearful witnesses and reliable data and statements which may be helpful in the prosecution of the perpetrators.

The CHR and the human rights movement should pool knowledge and capabilities for this serious endeavor of halting the rampage of human rights violations. While the CHR has no prosecutory power, it nonetheless could lend its personnel and resources to those who will file charges against gross violators of human rights. The CHR should avoid becoming just an expensive archive of gross human rights violations. To be a major actor in the fight against impunity, CHR, for one, must warn and weed out if necessary, officials and personnel whose actions abet impunity.[14] On the other hand, the non-government human rights organizations and institutions must collectively set common priorities. Together they could leave a legacy of being trailblazers in breaking impunity.

This legacy begins with acknowledging that the people themselves are the decisive force in breaking impunity. The needed human rights education that upholds the people's dignity must be broadly implemented and accelerated. People should know and assert their human rights. This assertion should be expressed organizationally through human rights formations, such as the Barangay Human Rights Action Centers (BHRACs)[15]. The members of these human rights formations must be trained in documenting and monitoring human rights violations, as well as government compliance of its state obligations within their scope of responsibility. These documentations should in turn be brought before all venues in the national, regional and international levels to obtain appropriate responses, including judicial and legislative[16]. Such human rights sensitivity and skills can imbue peoples' struggles with the

added courage and enthusiasm in asserting their common humanity and eventually breaking impunity.[17] Impunity, after all, is only broken when the people have determinedly asserted their human rights.

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NOTES:

1 Extra-judicial executions are killings perpetrated by state agents without recourse to the rule of law. "Salvaging" is a coined Filipino term for extra-judicial killing, popular during the martial law period. The victims of these human rights violations during martial law were those with political beliefs. Thus, most of the times, extra-judicial executions are synonymous with political killings.

2 Armed Forces of the Philippines' production "Enemies of the State", 2004. It must be pointed out that much of the information came from the martial law period. It contained names of persons some of whom are already dead, like Sr. Christine Tan of the Association of the Major Religious Superiors in the Philippines (AMRSP).

3 See CCHR Fact-Finding Mission Report: Pampanga and Bataan. April 24-26, 2006. Please refer to section on 'Militarization of Communities', p. 10ff.

4 See *SANLAKAS* report on Towerville, Bulacan, where each family was required to send a representative to a barangay (village) meeting where the military documentary, "The Enemy of the State", was shown. It must be noted that the urban poor communities harassed by the military were those which sent delegations to the anniversary of EDSA I last February 24, 2006.

5 Philippine Daily Inquirer, June 25, 2006, p. A18, 'One in body, spirit for the oppressed'. The extra-judicial executions of husband and wife George Vigo and Maricel Alave, former activists, were being blamed by Central Mindanao police Chief Superintendent German Doria to the NPA's sparrow unit. The local NPA denied responsibility saying that the couple were engaged "in the progressive legal democratic mass movement in North Cotabato".

6 At this point, extra-judicial executions take the strict generic and broader application of all killings perpetrated by state agents against anyone without due process of the law. Thus, one of the human rights violations identified by the CHR in the case of the "Bicutan Siege" is extra-judicial execution. Even though the victims of the siege were suspected members of the kidnap-for-ransom group Abu Sayyaf, they nonetheless were entitled to respect and protection of their human rights to life, to due process and to be free from inhuman treatment. All political killings or 'salvagings' referred to in this paper belong to the category of extra-judicial executions. But extra-judicial executions are not only political killings.

7 Task Force Bicutan was formed both to address the legal aspect of the Bicutan Siege and the campaign component of the incident. The Moro Human Rights Center (MHRC) is the lead organization. The legal aspect focuses on the cases of extra-judicial executions, massacre, excessive use of force and inhuman treatment of detainees in the SICA Bldg. in Camp Bagong Diwa, Taguig. These human rights violations were perpetrated on March 15, 2005 by police elements under the command of Angelo Reyes, then Secretary of the Interior and Local Government; incoming Police Chief Superintendent Lomibao and then-outgoing Police Chief Superintendent Aglipay. The Commission on Human Rights has already made an *en banc* resolution citing the above mentioned violations of the people who conducted the siege.

8 The cases presented for investigation came from the *Kilusan para sa Pambansang Demokratiko (KDP)* from the provinces of Pampanga and Bataan in Central Luzon.

9 The cases for investigation came from the organization Task Force *Mapalad (TFM)* which covers several contested land areas (Haciendas Del Fuego, Progreso, Dolores, Dorotea, and Adoracion) in Silay City, Negros Occidental. In the course of their struggles for justice and agrarian reform, some of the TFM leaders have been 'salvaged' and many of its members harassed and intimidated by State and non-State elements.

10 The high profile case was the one of Eric Cabanit, a peasant leader and staunch human rights defender, who was gunned down along with his daughter in Davao City in the island of Mindanao. Other cases were from Southern Mindanao, involving primarily violence in agrarian reform areas.

11 International Fact-finding Mission Final Report: "Running Amok: Landlord Lawlessness and Impunity in the Philippines". Fact-findng Mission conducted from June 2-15, 2006.

12 Nenette Adeva made a supplementary affidavit wherein she identified two of the three assailants of her husband, i.e. Ronald Europa y Porras and a certain "Boy Negro", whom she remembered as members of the Revolutionary Proletarian Army-Alex Bongcayo Brigade (RPA-ABB). The RPA-ABB verbally denied they had anything to do with the killing of Rico Adeva. See the final report of the International Fact-finding Report "Running Amok; Landlord Lawlessness and Impunity in the Philippines", 2-15 June 2006.

13 In practice, this assertion of our common humanity means taking up the advocacy and/or defense of suspected Abu Sayyaf detainees in Camp Bagong Diwa, of mass leaders from different political persuasions whose human rights have been violated by either state or non-state actors. Cases in Negros and the Bondoc Peninsula are examples of alleged violations by non-state actors as reported by the International Fact-finding Mission.

14 For example, Task Force Detainees of the Philippines (TFDP)-Mindanao: A complaint accompanied with relevant documents was filed by Rodolfo Baluyo and Talib Japalali in the CHR Davao office against military personnel who, without provocation, fired upon the house of the couple, Bacar Japalali and Carmen Baluyo, and killed them.

The incident happened in Barangay Bincungan, Tagum City on September 8, 2004.

CHR failed to conduct an investigation. This and similar acts of omission contribute to the culture of impunity.

15 This is a neglected program of the CHR which was envisioned to empower the citizens to take the lead in the promotion and protection of human rights in the grassroots level. After the Memorandum of Agreement between the CHR and the Department of Interior and Local Government (DILG) in 1994, out of 7,270 BHRACs established, only 2,342 are functional nationwide. Many must be acknowledged to have been politically coopted when the Barangay officials themselves act as the Barangay Human Rights Action Officers. The whole program must be assessed by all interested stakeholders. For one, the CHR has for several years not responded to the offer of assessment and collaboration by the Task Force Detainees of the Philippines (TFDP) and the Philippine Alliance of Human Rights Advocates (PAHRA) to establish and to strengthen BHRACs in their areas of operations.

16 It should be noted that the Philippines is a signatory to many human rights instruments and is presently a member of the newly formed United Nations Human Rights Council.

All people's formations of human rights should receive information and, eventually, training on the use of the international human rights mechanisms.

17 Collaborative efforts by civil society, especially the grassroots communities, the human rights movements and CHR could focus as priority areas the projected "mega regions" of development as well as the militarized areas where human rights violations are expected to increase. Massive human rights education and paralegal trainings and building human rights formations should receive comprehensive support.

'AWRA' GONE AWRY

(or, what not to wear during a state of emergency)

"*AWRA LANG sana kami. Kung alam ko lang na hihirangin akong Miss Colombia, 'di na sana ako nangarap na sumama sa mga kumare ko* (We just wanted to go on a lark. Had I known that I'd be crowned 'Miss Colombia' [read: end up in jail], I wouldn't have dreamed of going with my cronies.)," Lilybelle (not her real name), told PhilRights staff. It was around 3:00PM, February 24, 2006, and some PhilRights staff had gone to Camp Karingal in Quezon City to check on the status of some 91 persons arrested early that morning, a few hours before President Arroyo officially issued Presidential Proclamation 1017.

***Beauty and the beast*: the detainees inside Camp Karingal (above) and anti-riot police guarding the camp gate (top right).**
Photos by TRACY P. PABICO

Lilybelle was squatting rather un-daintily inside the Firing Range of the police camp. Her group had been herded there by the police team that stopped their vehicle around 7AM at corner Timog and Morato in Quezon City.

Lilybelle is 19 years old, and gay.

On the day she was hauled to Camp Karingal, she was wearing – fortunately or unfortunately – a very skimpy denim skirt. That singular skirt displayed and did not even pretend to shelter any part of her thighs. It was a micro-mini affair that might have goaded Twiggy herself (she who first hoisted the hemline 15 inches above the kneecaps) to declare a state of siege. It was a skirt meant for *rampa* (a generic term that could mean voguing, cruising, or simply gadding about), and not for trouble-making. Most definitely, it was a skirt one would not choose – even in a fleeting spell of lunacy – to attack Malacañang Palace, let alone to destabilize an entire police and Armed Forces all

armed to the teeth.

"*Wala naman kaming masamang intensyon, ano!* (We had no intentions of creating trouble!)" She stressed her indignation by furiously fanning herself with her pink paper fan. "*Ang ganda-ganda ko pa naman! Nakakaloka!* (Look how comely I am! This is so distressing!)"

One quick look at Lilybelle and her coterie would have revealed the obvious: they hardly posed any threat to peace and order, national security, democracy or the duly constituted authorities. If they chose to, they might have created a little traffic sideshow, but that was the best that this bubbly group could ever achieve in the name of danger. Only someone perversely obtuse or willfully moronic, or perhaps an over-zealous automaton, would have associated the vivacious band with the downfall of a régime.

So what was this little strumpet doing here in Camp Karingal along with the likes of UP Professor Randy David and lawyer Argee Guevarra?

On her way home from a funeral vigil early that morning, Lilybelle was asked by her gay peers if she wanted to go on an outing. "*Parang may celebration daw, dahil anibersaryo ng EDSA. Eh siyempre vorta aketch sa aking mansyon. Emyas agad ang lola mo. Akala namin may selebrasyon talaga.* (We heard that there would be a sort of celebration because of the EDSA I anniversary. It was a boring day back in my mansion, so I painted my face at once. We really thought there was a celebration.)" More than eight hours of fretful waiting at the camp had evidently not dimmed Lilybelle's irrepressible humor, narrating her story in that inimitably colorful and inventive language that gays have perfected.

Lucky Lilybelle. She had plucked her eyebrows the day before, so she just needed a few touches of rouge here and there. She was ready to compose herself inside the jeepney in a jiffy.

She was naturally tickled at the prospect of an outing, especially since some of the local boys were also going with them. "*Nandun ang mga boylet, oh di va*," she narrated with a coy smile.

But before they could get to what they expected to be a festive occasion, their vehicle was stopped. "*Hinarang kami ng mga pulis sa may kanto ng Morato* (The police blocked our vehicle)." Their jeepney was easily spotted by the police because it was out of line – it was supposed to ply the route far from EDSA. The vehicle was impounded, and they were made to disembark. Then Lilybelle, along with her friends who were as remarkably garbed and made up as her, were steered with hardly a preamble to Camp Karingal.

"*Yan ang kagimbal-gimbal na kasaysayan ng buhay ko!* (And that is the shocking story of my life!)" Lilybelle concluded in mock-serious tones.

At Camp Karingal, her group was joined by two more batches of detainees. Perhaps the lock-up couldn't accommodate all of them, or perhaps the arresting officials didn't want to look laughable, putting a group of harmless and bewildered people behind bars, so the detainees were confined at the Cold Firing Range. The range had a shed and several benches, but not all of the detainees could stay under the shed nor rest on the benches. Lilybelle and her friends ended up hunkering down under the shade of a tree.

David and Guevarra, of course, were not thrown in with them.

Like our pert heroine, all of the detainees inside the firing range came from urban poor communities in the outskirts of mega Manila. Used to the barest of essentials, the group tried to accommodate themselves to their inconvenient surroundings. There were no toilet facilities, so the women put up a makeshift cover of cardboard at the far end of the range. Whenever someone wanted to use the 'facilities,' she would need the help of two other women who would hold up the cardboard. The cardboard barely shielded the person, but it was the best that was available.

***Scenes from a state of emergency*: as angry rallyists massed up outside Camp Karingal to denounce the illegal arrest of some opposition personalities, detainees from urban poor communities, including a 6-year-old girl and her elderly aunt (far right) patiently wait for their release.** Photos by TRACY P. PABICO

The eldest of the detainees was Lola Marina, 70 years old. She thought she was going to a public gathering of her fellow Born-Again Christians. Like Lilybelle, she didn't have the vaguest idea why she was being detained. The organizers didn't properly inform them of the full purpose of the excursion that wound up at the police camp, nor the possible risks involved.

Of the 91 detained, seven were minors. The youngest was a 6-year-old girl. Her aunt, who was with her, thought it would be a good idea to bring her little niece to what she also thought was a celebration. While the grownups around her were shuffling their feet and twiddling their thumbs, not knowing what would happen to them, or when the authorities would come to their proper senses and let them go, the little girl went around the shooting range collecting empty bullet shells. Back home, she could earn a few pesos selling these at a junk shop.

When PhilRights staff arrived at Camp Karingal, negotiations were already under way for the release of the detainees. Lawyers from Sanlakas were in a huddle with police officials, while law interns from the UP College of Law were taking down the statements of the

detainees. Staff of the Medical Action Group were also on hand to give medical attention to some of the detainees who were reportedly manhandled and beaten by the police during their arrest.

Outside, activists angrily picketed the camp gates.

At around 4:30, some nuns from the Task Force Detainees arrived with cartons of bottled water and biscuits. Hungry, tired, and anxious about their legal status, the detainees quietly and wearily made two very orderly queues. Some had not eaten breakfast yet, having left their community quite early that morning for an anticipated celebration that ended up, as Lilybelle and her troupe would say, 'in Colombia.'

By 5:30, police authorities agreed to let the detainees go. Lilybelle and the rest of the hapless group lined up again, this time for the tedious processing of their release. They were profiled and finger-printed, like common criminals, although it was not properly explained why, when no charges were ever brought against them by the authorities.

Before nightfall, Lilybelle's brief but nerve-wracking reign as 'Miss Colombia' was over.

A quick check with the following day's newspapers painfully illustrates the supreme indifference of the universe to Lilybelle's brief brush with non-fame. The arrest of her group was not even mentioned in the news. In the political maelstrom of those days, Lilybelle's case did not merit attention. No reporters trooped to get her brassy quotes; no cameras framed her stylized poses. In the handbooks of mainstream reportage, Lilybelle was just an insignificant road-kill. Being a nobody, the trauma that she suffered in the hands of both the irresponsible organizers of that excursion and the officious police who detained her will not affect the grind of national politics and is therefore not newsworthy.

Even if it occurred to her, Lilybelle wouldn't have the resources nor the know-how to challenge the authorities that so mistreated her that day. In fact, she was even grateful for her release. So Lilybelle humbly faded back to her impoverished community without anyone being held answerable for the indignities she and 90 others suffered that day.

And that's precisely how human dignity and human rights get steadily eroded in the Philippines. – *jmvillero*

Alamin ang inyong mga KARAPATAN

A. Ano ang dapat gawin kapag ikaw ay hinarang at gustong kapkapan ng mga pulis o militar?

Sa ilalim ng batas, ang **pagharang** o pagpapahinto at **pagkapkap** sa isang tao ay magkahiwalay na aksyon ng pulis.

PAGHARANG O PAGPAPAHINTO

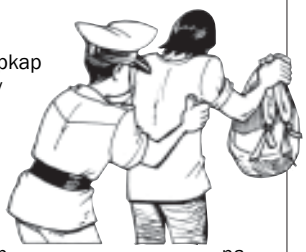
a. Ang pagharang ay ginagawa ng pulis upang imbestigahan ang isang pinagsususpetsahang indibidwal at upang malaman kung may sapat na dahilan para gumawa ng iba pang hakbang laban sa taong hinarang.

b. Ang pagharang ay maaari lamang humantong sa pag-aresto kung meron palang 'warrant of arrest' na inilabas laban sa iyo o kaya ay may sapat na dahilan ang pulis upang magsagawa ng tinatawag na 'warrantless arrest.'

k. Magagawa lamang ang 'warrantless arrest' kung ikaw ay nahuli ng pulis sa aktong paggawa ng krimen o kung may *personal* na kaalaman ang pulis na humuhuli na ikaw nga ay gumawa ng krimen.

d. Kung wala ang mga nabanggit na legal na batayan at walang dahilan para isipin ng pulis na ikaw ay armado, kailangang payagan ka agad ng mga pulis na makaalis.

PAGKAPKAP



a. Ang tanging layunin ng pagkapkap ay upang alamin kung ikaw ay may dalang nakamamatay na sandata. Ito ay para sa kaligtasan ng pulis na nais mag-imbestiga sa iyo.

b. Kapag ikaw ay pinahinto, hindi awtomatiko na may karapatan na ang pulis na ikaw ay kapkapan. Magagawa niya lamang ito kung siya ay may sapat na dahilan upang maniwala na ikaw nga ay armado at mapanganib.

SA AKTWAL NA SITWASYON

a. Maaaring itanong ng pulis ang iyong pangalan at iba pang pagkakakilanlan pero hindi ka niya pwedeng pwersahin na maglabas ng anumang papel hinggil sa iyong identidad.

b. Ang pagkapkap ay maaari lamang gawin sa pamamagitan ng marahang pagkapa sa panlabas na bahagi ng iyong kasuotan. Hindi ka pwedeng utusan ng pulis na maghubad upang makita kung ikaw ay may tatoo o iba pang marka sa katawan. Hindi rin pwedeng buksan ang iyong bag o utusan kang ipakita ang laman ng iyong wallet.

k. Habang ikaw ay kinakapkapan at may napansing nakatagong bagay sa iyong katawan, pwede itong ilabas ng pulis at tingnan kung ito nga ba ay mapanganib na sandata.

d. Kapag nakita ng pulis na ang nakatagong bagay sa iyong katawan ay sandatang nakamamatay, pwede niya itong kumpiskahin at maaari ka ring kasuhan.

e. Kapag napansin mong ikaw ay pinaglalaruan o hina-harass ng mga pulis, huwag lumaban o maging bayolente. Sa halip, maghain ng demandang kriminal, sibil, at/o administratibo laban sa mga pulis na nagkasala.

B. Paano kung ikaw ay nasa sasakyan at pinahinto sa *checkpoint*?

a. Hindi mo kailangang lumabas ng sasakyan at hindi rin kailangang buksan ang likuran ng sasakyan. Ang ini-inspeksyon lamang ng mga pulis ay mga bagay na kanilang nakikita at hindi kasama rito ang taong nakasakay at mga bagay na nasa loob ng sasakyan.

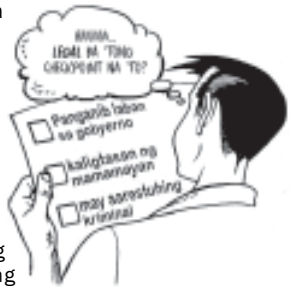
b. Maaari lamang magsagawa ng kumprehensibo o mabusising paghahanap ang mga pulis kung may mabigat at legal na basehan ang mga pulis na ang nakasakay ay lumabag sa batas o kung may makikita silang ebidensya sa loob ng sasakyan kaugnay sa isang naganap na krimen.

k. Kapag inutusan ka ng mga pulis na lumabas sa sasakyan o kaya ay buksan ang likuran nito, huwag agad sumunod. Pwede mong tanungin ang mga pulis ng kanilang mga pangalan, ranggo o posisyon, ang opisina o yunit na kinabibilangan nila, at ang dahilan o batayan ng nasabing utos.

Kung sa tingin ninyo ay walang sapat na dahilan ang kanilang mga ipinagagawa, mapayapang tumutol at sabihing hindi ninyo isinusuko ang alinman sa inyong mga karapatan. Sabihin din sa kanila na ang anumang ebidensyang makukuha nila sa sitwasyong iyon ay hindi naman maaaring magamit laban sa inyo sa korte.

Importanteng ipaalam at sabihin ninyo ang inyong pagtutol dahil ituturing na isinuko ninyo ang inyong karapatan laban sa hindi makatwirang paghahalungkat at pagkumpiska kapag hindi ninyo nai-rehistro ang inyong pagtutol laban dito.

d. Tandaan na ang mga *checkpoints* ay legal lamang sa ilalim ng mga sumusunod na sitwasyon: (1) kapag may malinaw na panganib laban sa katatagan ng isang gobyerno, (2) kapag ang buhay at kaligtasan ng mga tao ay nasa matinding panganib, at (3) kapag kailangang arestuhin ang isang kriminal.



e. Ang *checkpoint* ay dapat na ginagawa sa lugar na may sapat na ilaw at may mga malinaw na senyas o babala na may isinasagawang inspeksyon sa lugar na iyon. Lahat ng mga pulis na nakatao sa *checkpoint* at nag-iinspeksyon ay dapat na naka-uniporme na may 'nametags' at may tamang 'identification cards.' Ang yunit na nakabantay sa *checkpoint* ay dapat pinamumunuan ng opisyal na ang ranggo ay hindi bababa sa tinyente.

Kapag hindi nasunod ang lahat ng kondisyong ito, pwedeng mag-ulat at magreklamo sa kinauukulang opisyal ng pulis o militar.

K. Kung sa tingin mo, ikaw ay nakatakdang hulihin o i-*salvage*

- Huwag na huwag lalabas mag-isa. Tumataas ang panganib na madukot o kaya ay ma-*salvage* kapag walang testigo o kaya ay walang nais tumestigo sa pagkawala o pagka-*salvage* ng isang tao.

- Iwasang pumunta sa mga lugar na walang nakakakilala sa iyo.
- Huwag ding manatili sa bahay nang nag-iisa.
- Sabihin sa inyong pamilya at mga kaibigan ang posibilidad na kayo ay hulihin at kung ano ang mga dapat gawin kapag nangyari ito. Sabihin sa kanila kung sino ang mga pwedeng hingan ng tulong, kung paano sila makokontak, at kung saang mga opisina ka dapat hanapin.
- Bago umalis ng bahay, sabihin sa pamilya o mga kaibigan kung saan ka pupunta, sino ang kakatagpuin, ano ang dahilan ng pagtatagpo, at posibleng tagal ng paglabas. Kapag meron kang *cellphone*, laging ipaalam sa mga kapamilya at kaibigan kung nasaan ka at kung ano ang iyong kalagayan.
- Kapag lalabas, laging tiyaking meron kang mga papel ng pagkakilanlan o 'identification papers' at huwag magdala ng mga bagay na maaaring magamit na ebidensya laban sa iyo.
- Kapag huhulihin o dadamputin ka na, siguruhing maraming makakakita at makakaalam na ikaw ay inaaresto at kung sino ang umaaresto. Kung kailangan, sumigaw o mag-iskandalo upang makatawag pansin ang pagkaka-aresto sa iyo.

  Kung may *cellphone*, tawagan o mag-*text* kaagad sa pamilya, mga kaibigan at sa iyong abugado.

- Maiiwasan o mababawasan ang posibilidad na ikaw ay ma-*salvage* kung sasama ang iyong mga kapamilya, kaibigan, o kahit mga kapitbahay at tambay kapag ikaw ay inaresto. O kaya naman ay sumunod sila sa iyo at sa mga umaarestong pulis upang malaman nila kung saan ka dadalhin at ipakitang nangangamba sila para sa iyong kaligtasan.

Sa pinakamadaling panahon, kailangang masabi agad ng iyong mga kapamilya at kaibigan sa isang abugado o sa isang respetadong myembro ng komunidad (titser, pari, doktor, o lider) na dapat namang kaagad ay dumalaw sa iyo.

- Habang nakakulong, kailangang bisitahin ka nang madalas ng iyong mga kapamilya at kaibigan. Huwag pumayag na ilabas ka ng sinuman mula sa kulungan pwera na lang kung kasama ang iyong abugado o sinumang miyembro ng iyong pamilya.

- Kahit may malinaw kang impormasyon na ikaw ay aarestuhin o isa-*salvage*, hindi pa rin tamang ikaw ay magtago. Ang pwede mong gawin ay hilingin sa iyong abugado o isang respetadong tao na linawin sa kinauukulan kung meron nga bang 'warrant of arrest' laban sa iyo. Kung meron nga, patulong sa iyong abugado o kilalang respetadong miyembro ng komunidad na maisaayos ang iyong ligtas na pagpunta sa mga kinauukulan.

Pinaghalawan: ***"Your Human Rights"*** *na inilathala ng Free Legal Assistance Group (FLAG)*

Rapurapu Island: WHERE YOU EAT FISH AT YOUR OWN RISK

Photo by PEPITO D. FRIAS

Photo by PEPITO D. FRIAS

■ By **PEPITO D. FRIAS**

FILIPINOS ARE fond of eating fish. It is not a discovered or a chanced lifestyle. It is a heritage, a natural consequence of the country's archipelagic setting. So when people travel to the provinces, especially to fishing villages, they always expect to eat fresh catch of fish.

But not so when I and my officemate took a three-hour banca ride towards Rapurapu town at the edge of the Pacific in the south-eastern part of Albay. We were there to verify and document alleged fish poisoning in this island.

Rapurapu is an island community off the coast of Albay. The island acts like a buffer and protects the shores of Albay from giant waves coming from the Pacific. Mangroves line the shores of the island; above the town looms a mountainous forested area.

Rapurapu is a typical fishing village. So I took it for granted that my stay in the island would naturally include at least a meal consisting of fresh fish.

On our first meal, volunteers from the Social Action Center (SAC) of the Municipal Parish of Rapurapu, which hosted our two-day visit, offered us dinner without fish. I still thought that maybe later I could taste some broiled catches. After all, the island is located in what I supposed is one of the best fishing grounds in the entire archipelago. Yet, after a two day-stay, I and my companions had never had the chance to eat a single fish.

Fr. Felino Bagauisan, Rapurapu parish priest, said that the people of the Poblacion of Rapurapu have stopped eating fish that are caught from Albay Bay after two incidents of fish kill occurred last October 11 and October 21, 2005. He said that these two incidents were caused by mine-waste spills coming from a mining firm that operates in the island, the Lafayette Mining Company[1]. These spills, he said, contained cyanide which he said had caused the fish kill. Fr. Bagauisan recounted that some residents of a barangay that was affected by the spill brought him plenty of dead fish. He said that the people brought only those that they could carry with them. Since then, residents have stopped eating fish caught within their shores for fear of being poisoned, Bagauisan said.

News of the mine waste spills and its dangerous effects on the health of the people had sown fear among the residents of Rapurapu and some neighboring towns of Sorsogon. In Legaspi City, traders no longer patronize fish catch coming from Rapurapu Bay. Legaspi is the nearest unloading port where most of the fish from Rapurapu are sold wholesale.

In an island where the majority of the population

Photo by TRACY P. PABICO

Plunder and protest in Rapu-rapu: **open-pit mining on a small island (above); citizens protest against the destruction of their habitat, livelihood and main food source.** Photo by PEPITO D. FRIAS

depend on subsistence fishing and fishery-related activities for income and food, the contamination of its surrounding waters cannot be taken too lightly. The loss of the only source of livelihood and food-source will seriously affect the very survival of thousands of island residents, not to mention the health risks on the population in the surrounding municipalities.

But not all residents of the Poblacion of Rapurapu shy away from fish. A woman resident admitted that they still buy fish because she believes the bay may not be contaminated at all because the sea under-current is heading towards another direction, thereby carrying away the poisonous wastes. Or so she hopes. She had no hard data to support her belief, of course.

When I talked to her, she had just bought fish from a fish vendor who in turn showed me a plastic basin of her merchandise. There were about 2-5 kilos of fish of different varieties. "*Naibebenta mo pa rin ba yan dito*? (So you can still sell these here?)" I asked the fish vendor. "*Oo naman* (Yes, of course)," she said. The vendor goes around on a pedicab, pedalling around town while hawking fish. She told me that the fish are caught not inside the Bay but in fishing grounds some kilometers away. It seemed to be an honest sales-talk. I almost drew out my money to buy a few kilos; but I never dared.

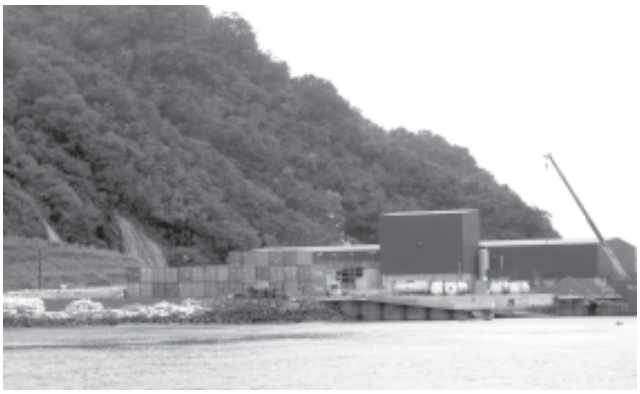


Photo by TRACY P. PABICO

This particular vendor has resorted to ingenious means to earn a few pesos out of selling fish, at a time when fish almost seemed synonymous with poison. She was not only selling her fish the old way. Whenever she ends up with unsold fish, she would dispose of this through a lottery. She might have 3 kilos of fish left, worth at least ₱150. She would sell 20 different numbers at ₱10 per number. Like any other game of chance, the holder of the winning number ends up with the catch, paying only ₱10 for the entire haul.

Photo by TRACY P. PABICO

Photo by TRACY P. PABICO

But then, whether the fish was safe to eat was also left to chance. It was, I thought, a game of chance where no one is really lucky and no one really wins.

I saw again the fish vendor who pedaled past me towards the port of Rapurapu. There was the empty basin and the scale jangling away on her pedicab. She beamed at me, and I presumed she had just raffled off all of her supply. "Some unlucky people had just lost," I thought.

Until that day when we left for home, I and my group were not able to eat fresh fish on the island.

When we headed for Legaspi aboard a large passenger banca, two baggage-carriers brought down a crate of fish on the side wing of the banca. I could picture the owner of this crate bargaining with and imploring fishbuyers in Legaspi City. It was a lone crate with several large fish inside, presumably caught from the Pacific side of Rapurapu. I took a picture of the yellowish tails that protruded from the crate. The photos would not only be part of my documentation. They would remind me that a foreign-owned mining company, in its quest for gold, has robbed the residents of Rapurapu Island the right to harvest the seas' bounties.

NOTE:

[1] According to the Mines and Geosciences Bureau website, The Rapu Rapu Polymetallic Project is a mining venture of Lafayette Phils., Inc (an Australian firm). The project will extract copper, gold, silver and zinc from the island.

Panelists at the launching of the book on women on death row.

Human Rights Activists and the Repeal of the Death Penalty Law

■ Text and photos by **TRACY P. PABICO**

ON JUNE 24, 2006, the Philippines joined 124 other countries that have already abolished the death penalty either in law or in practice, when President Arroyo signed Republic Act 9346 ("An Act Prohibiting the Imposition of Death Penalty in the Philippines").

The Road to Abolition

The movement for the repeal of the death penalty law has been a long and difficult journey.

The re-imposition of death penalty in 1992 gave birth to the Coalition Against Death Penalty (CADP) which was initiated by the Catholic Church. CADP together with the Free Legal Assistance Group (FLAG) and Amnesty International (AI) spearheaded the campaign against the Death Penalty law that same year.

After the execution of Leo Echegaray in 1999, the Philippine Alliance of Human Rights Advocates (PAHRA) and AI intensified the campaign and formed the Movement Against Death Penalty (MADPEN), a coalition of anti-death penalty advocates and organizations.

In 2003, the Mamamayang Tutol sa Bitay – Movement for Restorative Justice (MTB-MRJ) was established to further strengthen the campaign against the death penalty. The MTB-MRJ was founded on the gains and lessons learned after over a decade of campaigning for the repeal of the death penalty law.

MTB-MRJ has been at the forefront of the campaign to abolish the death penalty from the criminal justice system of the country. It has made use of

Young adults express their views on capital punishment during an art workshop.

Cutting the ties that kill: **Akbayan party-list representative Etta Rosales is joined by top diplomats of the European Union (above); Congressman Edcel Lagman and Sr. Cres Lucero of the Task Force Detainees of the Philippines (top, right); Austrian Ambassador Herbert Jaeger (below) during the forum on the repeal of the Death Penalty Law.**

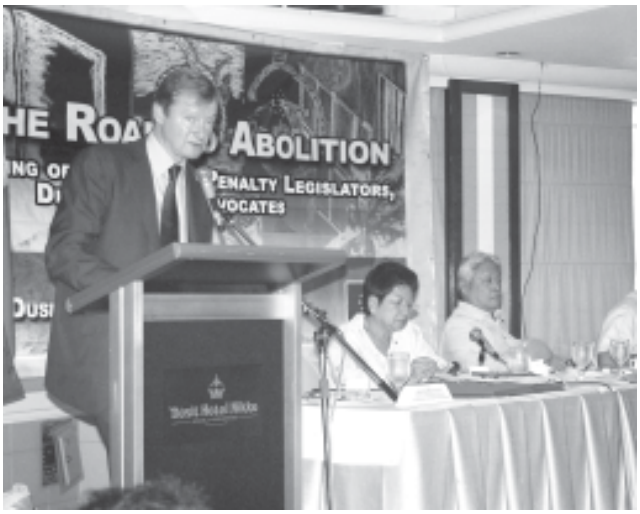
creative and innovative campaign modes such as film showings, symposia, photo/art contests and exhibits, cultural performances, and literary productions to convey a human rights perspective on the issue of death penalty.

The MTB-MRJ established linkages with the death row inmates and their families, church groups, academic institutions and student organizations, community-based organizations, the media, lawyers' groups and other non-government organizations beyond the traditional network of human rights groups. This makes the MTB-MRJ the broadest Anti-Death Penalty coalition formed, with over 150 organizations working in the three major island groups in the country.

The MTB-MRJ also made its presence felt in the international arena by participating in the 2nd World Congress Against the Death Penalty and the Asia Pacific Regional Consultative Meeting Against Death Penalty. Representation was made to these activities to show the network's solidarity with the International Abolitionist Movement and to share our experiences and lessons learned with fellow anti-death penalty activists. Local campaign activities were conducted to coincide with the commemoration of the World Day Against the Death Penalty across the globe in 2004 and 2005.

Amongst the different "multilateral" agencies, the European Union played a big role in the campaign to repeal the death penalty law. The EU supported the campaign for several years without fail and even went as far as to lobby directly with the Philippine Government to repeal the death penalty law.

But all these efforts would have been for naught had the network not been able to work closely with the government and its attached agencies.



Engaging the State to Secure Human Rights

The partnership between civil society and the state has always been at the heart of the network's approach in the campaign to repeal the death penalty law.

In the course of the campaign, the network established a strong working relationship with the House of Representatives, the Senate, Commission on Human Rights and the Presidential Legislative Liaison Office. These government institutions and the people working with the network made it possible for the prompt deliberation of the Anti-Death Penalty bill and the immediate passage of this legislative measure into law.

Senate Bill 2254 and House Bill 4826 were passed by both Houses on June 6, 2006.

On June 7, 2006, the Bicameral Conference Committee (through tele-conference) approved the final version of the bill repealing the Death Penalty Law. On June 24, 2006, President Gloria Macapagal Arroyo signed Republic Act 9346 or *"An Act Prohibiting the Imposition of Death Penalty in the Philippines"*.

R.A. 9346 effectively repeals R.A. 7659 or *"An Act to Impose Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Code, as Amended, other Special Penal Laws, and for other Purposes"*, as well as R.A. 8177 which mandates that the death sentence shall be carried out through lethal injection.

The penalty of *reclusion perpetua* or life imprisonment without parole replaced the death penalty immediately upon the enforcement of R.A. 9346.

According to Amnesty International, the Philippines is the 25th country in the Asia-Pacific region and the 125th nation to end capital punishment in law or practice.

The repeal of the Death Penalty Law is a victory for the human rights movement and Philippine society. However, there is much that must be done to protect and fulfill the human rights of all Filipinos.

Human Rights Activism and Reforming the Justice System

The repeal of the death penalty law is a major step towards the transformation of the retributive criminal justice and prison system into a restorative justice system. There is much that needs to be done to make our courts more efficient and fair; to make our prisons places of rehabilitation; and to ensure that justice prevails over the victims, offender and society. It is not enough that the offenders are tried and sentenced for their crimes. It is crucial to make certain that the victim, offender and society are processed under a restorative system to restore the harmony within the community.

Restorative justice is a response to crime that focuses on restoring the loss suffered by victims, holding offenders accountable for the harm they have caused, and building peace within communities.

Restorative justice is a different way of thinking about and responding to crime. It focuses on repairing the harm done to victims and reducing future harm by preventing crime. It seeks redress for victims, recompense from offenders and the reintegration of both within the community. It is achieved through a cooperative effort by communities and the government.

A study on the prospects and perspectives on restorative justice in the Philippines is being undertaken by the Philippine Human Rights Information Center to strengthen the advocacy for a restorative justice system. A pioneering research on women in death row titled "Invisible Realities, Forgotten Voices: The Women on Death Row from a Gender and Rights-Based Perspective" also highlights the need to transform the justice system from being retributive to being integrative, healing and restorative (*see related story*).

Getting the message across: **young children express their anti-death penalty sentiments through art (above); MTB members talk to legislators (below); a women's performance group (bottom).**

A National Policy Conference on the Abolition of the Death Penalty and the Institutionalization of Reforms in the Philippine Criminal Justice System provided an outline on how to establish a restorative justice system in the country. This outline can be summarized in the following policy recommendations approved by all participants during the conference.

Policy Recommendations of MTB-MRJ:

1. Align national laws, policies and practices of the criminal justice system to international human rights standards.

2. Re-orient the Philippine Criminal Justice system based on human rights principles and standards.

3. Improve and enhance correctional mechanisms and processes.

4. Institute support programs and mechanisms for victims of crimes.

5. Address the root causes of crime.

The journey does not end with the repeal of the death penalty law. It is but one step in the transformation of the retributive criminal justice system in the country towards a restorative justice system.

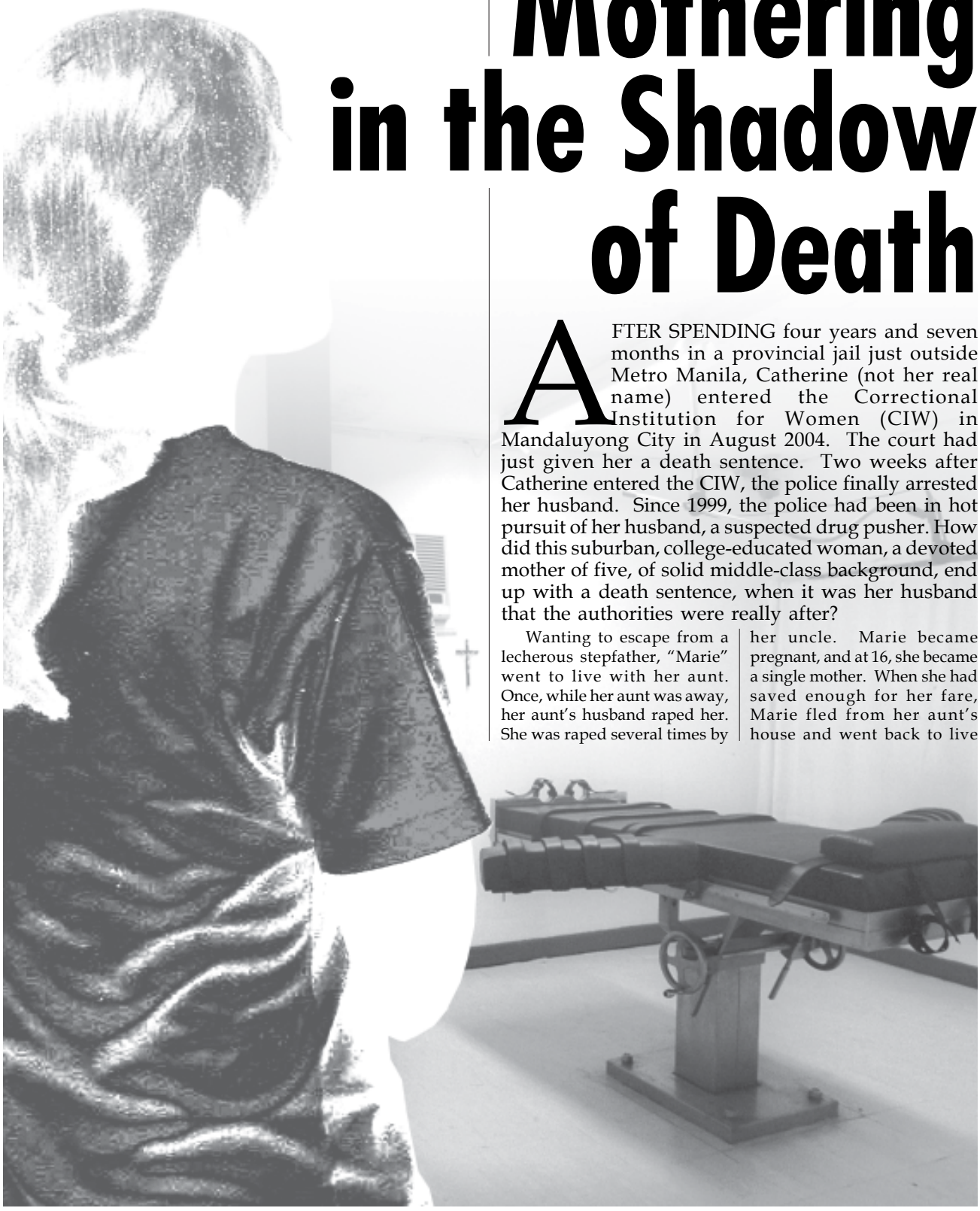
REFERENCES

Mamamayang Tutol sa Bitay – Movement for Restorative Justice (April 2003). *Death Penalty in the Philippines: An Overview*, http://www.mtb-mrj.com/docus

Mamamayang Tutol sa Bitay – Movement for Restorative Justice (May 2006). *The Criminal Justice System and the Death Penalty.*

Prison Fellowship International. *Introduction to Restorative Justice*, http://www.restorativejustice.org/intro.

Mothering in the Shadow of Death



AFTER SPENDING four years and seven months in a provincial jail just outside Metro Manila, Catherine (not her real name) entered the Correctional Institution for Women (CIW) in Mandaluyong City in August 2004. The court had just given her a death sentence. Two weeks after Catherine entered the CIW, the police finally arrested her husband. Since 1999, the police had been in hot pursuit of her husband, a suspected drug pusher. How did this suburban, college-educated woman, a devoted mother of five, of solid middle-class background, end up with a death sentence, when it was her husband that the authorities were really after?

Wanting to escape from a lecherous stepfather, "Marie" went to live with her aunt. Once, while her aunt was away, her aunt's husband raped her. She was raped several times by her uncle. Marie became pregnant, and at 16, she became a single mother. When she had saved enough for her fare, Marie fled from her aunt's house and went back to live

Wasted lives: **death row inmates at the Correctional Institution for Women (CIW) during the book launching.** CIW

with her mother and stepfather, who arranged her marriage to a man ten years older than her. What seemed at first to be a good husband soon turned into a monster. He started to have extra-marital affairs, coming home late and drunk. He became verbally abusive. Eventually, the verbal abuse progressed into physical abuse. One day, he beat her so badly she had a miscarriage. It was her sixth pregnancy. Barely a month later, when she had not yet fully recovered from the miscarriage, her husband came home drunk as usual. He wanted to have sex with her. When she refused, he started punching and kicking her. Marie grabbed hold of a pipe, struck at her husband and ran out of the house screaming for help. The policeman who accompanied her back home found her husband dead.

Mother's Day Reminder

Catherine and Marie are just two of the 31 women in the death row facilities of the CIW (right before the Death Penalty Law was repealed on June 24, 2006). Theirs are harrowing stories of domestic violence and abuse, of extreme hardships endured in silence, of childhood traumas that would have crushed even the most hardened adults. Catherine and Marie are two of the real-life protagonists in a book launched by the Philippine Human Rights Information Center (PhilRights) and Women's Education, Development Productivity and Research Organization (WEDPRO). Titled "Invisible Realities, Forgotten Voices: The Women on Death Row from a Gender and Rights-Based Perspective", the book is based on research conducted by WEDPRO and PhilRights in late 2004 and 2005 among death row inmates at the CIW. PhilRights and WEDPRO launched the book in time for the celebration of Mother's Day to call attention to the women and mothers whose daily lives are marked with death.

The research, combining documentary analysis, survey and case study methods, aims to present a general profile of women on death row, describe the circumstances that led to their incarceration, and describe the impact of their death row status on their self-perception and on relations with their significant others. By looking at the experiences of death row women, the research examines the gender dimension of capital punishment and prison life in general. However, the study does not delve into the legal debates on the death penalty. Neither does it tackle the legal issues of the women's cases.

Pioneering effort

The study breaks new research ground on crime and the justice system in the Philippines. Prior to this, there had been no research on the justice and penal systems that surfaces the distinct experiences of women in prison and tries to understand their circumstances from a gender and rights-based approach. Also, previous studies on capital punishment may have included women in their samples, but due to the very small female ratio in the death row population, these studies tend to obscure the distinctive characteristics and experiences that are unique to women inmates.

At the start of the study in July 2004, CIW's death row housed 28 inmates. Of this, 13 were convicted for kidnapping for ransom; five had drug-related offenses; five were sentenced for parricide; three were in death row for murder; and two were convicted for arson with homicide. The Supreme Court had already affirmed the sentences of five women, all of which involved kidnapping. The 23 other cases had ongoing appeals. Two more women, one convicted for kidnapping and another for a drug-related offense, were added to the death row population in 2004. Of this total, 12 women agreed to participate in the survey. Four inmates later consented to take part in the case studies, each representing one case for the following crimes: murder, parricide, drug-related offense, and kidnapping.

No criminal records

The study found out that most of the women in death row come from poor families, with markedly low educational

attainment. The study reports that "the women had barely understood how the legal system works despite the legal counsel available to them." For one inmate, the legal proceedings were all a blur because she did not understand what was going on. She did not understand the briefings her lawyer gave her. Another inmate was not informed by her lawyer that she was well qualified to be a state witness, which would have reduced her sentence; instead, she was simply told to cry in court so that the judge would take pity on her.

The researchers found it disturbing that all of the women who have been given the death sentence had no criminal records prior to their conviction. This means that these women facing capital punishment are not habitual or hardened offenders.

Lives on hold

As of November 2004, the women had each been in the death row from six months to six years and eight months. The sentence of one of the two longest-serving death row inmates had her sentence affirmed only in 2004.

All told, most of the women (78.6%) have spent more than four years in prison (on death row and in jails). Five of them had spent between eight to ten years behind bars.

Productive years lost

During the time of the study, the oldest female facing the death penalty was an 84-year-old woman who was hauled to court when she was already aged 80; the youngest was 22 years old, arrested when she was only 17. Under the law, anyone below 18 or above 70 years old at the commission of the crime cannot be sent to the death row.

The majority of the death row women, however, are usually in the most productive years of their lives. Twenty out of 28 belong to the 21 to 40 age group. Slightly more than half of them are in their 30s.

A significant number of these women were gainfully employed immediately prior to their arrest, although in marginal, low-paying jobs. They were supporting their parents and siblings, or their own families. Ten of them worked as househelpers, nine were self-employed (vending and buy-and-sell business), and the rest were farm laborers (2), factory workers (2), and a waitress. Three were engaged in unpaid work as housewives, and one was a student.

History of violence and abuse

A critical finding of the study was the history of violence and abuse which these inmates suffered during their childhood as well as in their domestic relationships. Of the 12 inmates who participated in the in-depth interviews, six cited child abuse as the reason for their estranged relationship with some or all of their family members. These women reported experiencing various forms of physical, emotional and sexual abuse at the hands of one or both parents, stepparents and other members of their extended family.

Of the 10 women who were in a domestic relationship, eight admitted that they were abused by their respective intimate partners.

All four women who participated in the case study shared similar backgrounds of sexual violence, which led the researchers to wonder: "Could this (sexual violence) be a factor in the way they led their lives or made their choices – given the limited choices they had?"

Mothering behind bars

Relationship with their children is a significant aspect of the lives of the death row women. Of the 12 women surveyed, nine are biological mothers to their children while one was the primary caregiver of her partner's children from his first relationship. Six of the women in the survey have three to four children, while three of the respondents have five to six children. One has two children.

Five of these women have dependent children aged below 18 years old. In addition to this, two women have children who are still studying in college, while one is a mother of a mentally challenged son who is already in his 20s.

Two of the respondents are single and do not have children.

Despite their incarceration, women on death row continue their roles as mothers to their children. For these women, seeing their children regularly and ensuring their welfare remain as their primary concern. They continue to provide not only emotional support to their children, but even financial support as well. For example, one of the four participants in the case study takes on odd jobs within the CIW so she could send some money to her daughter who is in high school. Her dream is to send her daughter to college, and being on death row does not deter her from pursuing this.

Children of death row mothers had to be given to various people or relatives. Four out of the ten mothers surveyed stated that some of their children had to stay with their relatives. In two cases, the children's respective fathers took sole responsibility for the upbringing of the children. The others left their children in the care of parents (1) and husband's parents (1). Children of two of the respondents are already grown up and no longer need parental support.

Incarceration clearly took a toll on their relationship with their children. Children of death row women reacted differently to the sentencing of their respective mothers, ranging from grief to anger towards their mothers. All the mothers surveyed decried the fact that they do not see enough of their children. In one case, visits and communication from the children stopped when the woman received her death sentence, whereas before her children regularly visited her, wrote letters and sent her money. Since her transfer to the CIW, her children had not visited nor communicated with her.

Two of the ten mothers surveyed also face possible loss of legal custody over their children. For one of the mothers, custody over her children is already being litigated.

Separation from loved ones

The imprisonment of women has severely affected their relationships. Because of their incarceration, the women could not see their loved ones as often as they would like to, and when they do, it was only for a brief period. Nine women who had been previously imprisoned in provincial jails stated that the number of visits from family members was also affected by their transfer to the CIW. Most of the inmates' families, especially those from the provinces far from Metro Manila, do not have time nor money to visit. The families of some inmates, however, would rather forget about their loved ones inside the death row. The mother of one inmate, for example, would not visit her daughter though for a time she was residing in Manila.

Only four of the 12 inmates have regular visitors (at least once a month), which included their children, intimate partners, parents and siblings.

The remaining eight women have had no visitors in the past four years of their imprisonment. In one case, no family member has visited the respondent since her transfer to CIW, although she was visited once while in jail. The respondent's family is based in Mindanao and cannot afford the travel to Metro Manila. The respondent also decided not to write to her family who has yet to be informed of her conviction to the death row, and of the fact that the Supreme Court has already affirmed her sentence.

Having one's family living in Metro Manila does not assure

regular visits, however. One inmate lamented that her children rarely visit her, and on the rare occasion that they did, it was only to persuade her to transfer her house to their name.

Relationships

Relationships with their intimate partners also suffer because of their incarceration. Of the 12 inmates surveyed, seven were in an intimate relationship prior to their arrest. Of these, only one maintained her relationship with her partner. The others (4) broke off their relationship, while one maintains communication with her former live-in partner because he happens to have custody of one of her children. There is no information on the status of the relationship of one inmate.

Some of the women, however, have formed relationships with fellow inmates. In these relationships, the partners are referred to as "kaibigan" (friend). As one inmate explains, "*Hindi naman kasi kagaya ng mag-asawa eh. Parang* companionship *lang. Siya ang tumulong sa iyo, umalalay sa iyo, nagmalasakit sa iyo.*" (It's not like being married to a man. It's more for companionship. She helps you out, supports you, shows compassion for you.)

Abolition

The study points out that the experiences of the death row women, before and after sentencing, painfully illustrate the flaws and weaknesses of the country's judicial and penal systems. The marked degree of violence and abuse that characterized most of the women's childhood and married life, the seemingly half-hearted legal defense that they got, the deprivation and hardships before sentencing that are intensified inside prison, the responsibilities that these women are still expected to perform for their families (especially their children) even when they are already in prison and facing the death penalty, and the constant torment brought about by their death sentences, all these are realities that are not taken into account by the courts and prison institutions. Under a gender-responsive and rights-based legal system, these lived realities should be primary considerations in the dispensation of justice and punishment.

Aside from advocating for a gender and rights-based approach to justice, the study proposes an alternative to the prevailing system of justice. The study deplores the fact that the existing justice system is retributive in nature. The alternative it offers comes in the form of restorative justice, a new approach to crime and penality that is "integrative and healing," that sees crime as rooted in political, socio-cultural and economic factors, in which the pursuit of justice is both offender- and victim-centered. Because capital punishment is the foremost embodiment of the retributive nature of criminal justice, the study strongly suggests that its abolition is crucial to the creation and mainstreaming of a restorative justice system.

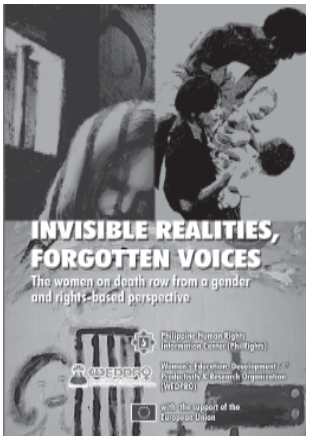
Even as the study calls for the abolition of capital punishment, it also urges the government to reorient the criminal justice system and make it more responsive to the needs and welfare of women inmates, because, as the study points out, "women inmates have not relinquished the most basic role that society and culture has ingrained in them: that of being mothers."

Postscript

On June 24, 2006, President Arroyo signed into law the legislative measures that would repeal Republic Acts 7659 and 8177, just in time for her scheduled audience with Pope Benedict XVI (*please see related story on the repeal of the Death Penalty Law*). The repeal was received with mixed reactions even from the anti-death penalty activists: it stipulated that death row inmates who would benefit from the repeal would not be eligible for parole.

For Catherine and the rest of the mothers on death row, their dreams of rebuilding their lives with their children had just been dashed to the ground. – *jmvillero*

PhilRights' Dr. Nymia Pimentel Simbulan and WEDPRO's Aida F. Santos distribute copies of the book. CIW



INVISIBLE REALITIES, FORGOTTEN VOICES:
The women on death row from a gender and rights-based perspective

Combining quantitative and qualitative modes of inquiry, this study looks into the world of women who have been marked for death. It offers new ways of understanding the circumstances of women in prison, specifically the women on death row. Its aim is to derive from the women's life stories conceptual handles with which to interrogate the flaws in the country's justice and penal systems.

Reflections on Restorative Justice in the Philippines

■ By **SABHA MACMANUS AND SOPHIE C. MILLNER***

THE JUSTICE system in the Philippines is contradictory. In some areas it is progressive and idealistic, in others outmoded and ineffective. Either way, problems with implementation are paramount; the theory of the laws often extends beyond their practical reach.

Whoever the commentator, the voice of the Filipino people on the justice system seems united. The problems commonly identified are implementation, corruption and miscarriage of justice often resulting in the victimization of the poor. Adults experiencing the justice system from all angles - whether victim, offender, policy maker, worker – are all calling for change. Anti-crime advocate and founder of Citizens Action Against Crime, Teresita Baltazar said in a recent article entitled 'Long wait for justice' that a crack-down on crime was needed; the criminal justice system "needs a major overhaul to make it work." Inmates in the Correctional Institution for Women (CIW) repeatedly say that whilst the justice system in theory is sound, the implementation as a result of bureaucracy is poor.

Despite their differing perspectives, these groups are joined by their common aims. Both aspire for a society in which there is less crime; fewer victims, fewer offenders and fewer miscarriages of justice; where freedom, security and stability are givens and rights are not violated.

This poses the question of what the future holds for justice in the Philippines. The system at present recognizes crime as the violation of state laws. In the identification of and response to crime, it considers only the law broken rather than the individual affected.

One possible alternative system is that of Restorative Justice. A way of understanding Restorative Justice is by imagining the justice system in terms of a spectrum: placing

High school students' interpretation of restorative justice. Photos by TRACY P. PABICO

retributive justice at one end, polarised by Restorative Justice at the other.

Restorative Justice aims to consider the position of all those affected by a crime – the victim, offender, their families and the community. It focuses on the harm caused by the crime with three stages. Firstly, it encourages the offenders to accept responsibility for what they have done; secondly, it tries to repair the harm done to the victim; and finally, it tries to reduce future harm by preventing crime. Prosecution only proceeds if the offender fails to make sufficient reparation. Throughout these stages, the rehabilitation of the offenders and their reintegration back into society is a primary concern.

This article considers some of the Restorative Justice practices at work in the Philippines and what individuals, at all levels of the system, say about the possibilities for others.

Within the Philippines two programs stand out as currently restorative in nature: the recenty-enacted Juvenile Justice and Welfare Act of 2006 (Republic Act 9344) and the Barangay Justice System (*Katarungang Pambarangay*).

Throughout the world, Restorative Justice is increasing in popularity for juveniles. The UK and the US have joined many other countries in introducing practices that focus on the rehabilitation and reintegration of juveniles. The new Juvenile Justice Law reflects this trend, forging its path as a leader of alternative practices worldwide and providing an excellent model for other countries. The law raises the age of criminal responsibility, prevents the detention of minors and introduces programmes such as mediation, conflict resolution, reparation, anger management and counselling for offenders under 15 years. Underlying these changes is a theory of Restorative Justice. It presents a vision for a future where the emphasis is on the rehabilitation of offenders rather than on their imprisonment.

However, the bill is ever contradicted by the practice of the current system. Ray Dean Salvosa, Executive Director of The Consuelo Foundation and a key campaigner for the bill remarks that it took them eight years to get the bill passed but that it will probably take the same again before it is properly implemented. Aside from this, the theory is at least there, and the groundwork for a campaign set. In a recent article 'Juvenile Justice' in The Philippine Daily Inquirer, Michael L. Tan welcomed the bill but asked, "What about the adults?"

Restorative Justice has a long tradition within indigenous communities. Practices such as peace pacts are still fundamental to tribal relations today. The Barangay Justice System (BJS) represents a Restorative Justice practice for adults, which has emerged from indigenous practices (bottom-up) rather than from government initiatives (top-down). The BJS aims to address conflict in communities through mediation. It only comes into play when the maximum penalty for the crime committed is less than one year or the fine less than ₱5000. Although it has been successful in reducing court backlog (by up to one half in some areas) the BJS still faces problems. The limits of the crimes that it can consider, the possibilities for corruption, bias and a lack of understanding of how the system can work, often prevent the system from reaching its full potential.

To try and understand what other Restorative Justice practices could be introduced in the Philippines, we interviewed individuals at all levels of the justice system to get an idea of what restorative justice meant to them, what problems they perceived in the system at present and what changes they would make for the future. All of those interviewed had their own ideas about what restorative justice is but the common thread was the idea that Restorative Justice meant restoring something which had been lost.

In the Correctional Institution for Women this entails restoring to the women the opportunity to change, to have a second chance, by focusing on rehabilitation. However, Atty. Rachel Ruelo, Superintendent of

Photos by TRACY P. PABICO

CIW looks beyond her work, to the bigger picture. For Atty. Ruelo, justice is not an issue that becomes relevant only when an individual is faced with the law but is a principle that should be inherent in society. Justice and injustice both manifest in terms of the life opportunities offered or denied by society: "From the kind of house you live, the kind of food you eat, the kinds of clothes you wear, the places you go, how you are treated by local authorities, what kind of hospital you are admitted, to the kind of cemetery you are buried." To Atty. Ruelo, Restorative Justice is about giving back what has been denied; about recognising the impact of basic needs of all in society in order to "change the plight of the poor."

This philosophy is visible in the value she places on the lives of the women in her institution, giving the offender the space to change, to try to repair what has gone wrong; to rehabilitate.

To Robert Arcinas Veneracion, Security Officer I at the CIW, his commitment to rehabilitation was also clear. 'We have no bad people, only misguided people', he said, concluding that 'everybody deserves a fresh start.'

As was suggested by one of the inmates, he sees CIW as a half-way house where inmates can be rehabilitated. However, he says that the stigma of the prison makes reintegration difficult. He suggests that a 'work program', where offenders are employed at minimum wage to improve the country's infrastructure, would enable inmates to return to their communities without the discrimination that comes from society's perception of them as criminals. He identifies that inmates must learn 'marketable skills' to prevent a relapse to the reasons why they committed the crime in the first place. He remarks that 'as part of integration we must arm them. It is like going into battle'.

> Restorative Justice will "always be a work in progress", evolving with a changing society

"To mend the brokenness of prison, the emptiness" is how one inmate at CIW defined Restorative Justice. The women inmates at CIW spoke with a deep reflection and insight about their understanding of Restorative Justice. Acknowledging the damage caused by their actions, they felt willing to repair what they could for the victim; and many had actively tried. They were willing to participate in a form of mediation facilitated by a third party, but felt sceptical that the victim would agree.

Whilst community reintegration is being increasingly incorporated into the working of the CIW, little contact has occurred between the victim and the offender. The link in this chain is left unrepaired. Why? The welfare of the inmates is the priority of the staff at CIW and they fear a meeting between such parties would put the inmates at risk.

And for the inmates themselves? Has their experience of justice been restorative? "Now I'm here I want to be a better person", to be able to feel that "even though I am here I am not an outcast in society". "Everybody deserves a second chance in life. If God can forgive why can't we?"

But what has been lost is the opportunity to parent their children, to serve society with their professional skills, to sustain family bonds, to earn money for their family. These things will have to be repaired when they are faced with release.

Consensus amongst CIW inmates was that five years in the correctional is enough for

punishment; after that the process becomes dehabilitating: 'anger sets in and you start to loose your sense of self' one inmate said. It was commonly agreed that despite the programs going on in the prison, more rehabilitation is needed. Several inmates called for proper livelihood programs where they could earn minimum wage, others called for proper counselling to provide social and psychological cleansing. It seemed that many women lacked emotional nurturing and one inmate suggested that the only place to find this within the prison was to turn to the church. Most of the women that we spoke to said that they understood each other better this way.

One inmate had a well thought out alternative to the prison system as it stands. Although she said that she was unaware of restorative justice, she advocated a 'community in which offenders can be properly rehabilitated; 'to make us a better person'. (Although this is exactly what CIW strives to be, it shows that the inmates feel that more is needed.) Despite the focus on rehabilitation, this inmate acknowledged that poverty was still a key cause of crime. She added that 'unless the economic crisis is taken care of decently and honestly the commission of crimes won't lessen.' This further suggests that although restorative justice practices are needed, this change must go hand in hand with programs to alleviate poverty as a significant cause of crime.

Furthermore, we were struck by the number of inmates who either professed their own innocence or who freely acknowledged that a fair percentage of inmates they knew were innocent. From this the question must be posed: what is the place for restorative justice in a system where those being rehabilitated may not need rehabilitation in the first place, and yet those who need rehabilitation are escaping the system? Again we arrive at the conclusion that the wider problems with the justice system – corruption, implementation and miscarriages of justice – must be dealt with as urgently as any restorative reform of the punitive system.

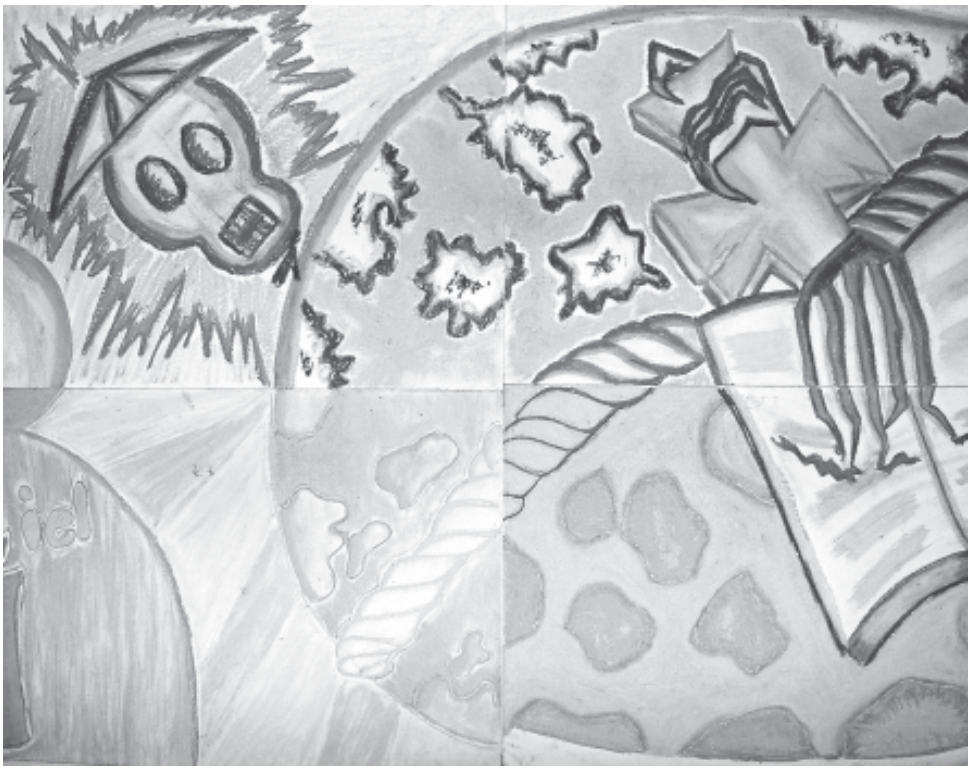


Photo by TRACY P. PABICO

Resonating with Atty. Ruelo's statement that "the underprivileged are denied justice. The poor, the oppressed, the illiterate – most of them are denied justice", the head of the Public Attorney's Office, Atty. Persida Acosta, also stated that her priority now was to fight for the innocent ones. She appeals for the restoration of freedom for those who have been denied it. Those who are "there due to poverty, circumstances, and lack of good lawyers". Who else would be fighting for them?, she asks. Atty. Acosta identifies that there needs to be an equal voice between the prosecution and the defence; an equal voice between the law enforcers and the defence that protect human rights, and that there should be a balance between all opposing sectors.'

In Salvosa's eyes Restorative Justice represents an ideal, but an ideal that society should nevertheless strive towards. Restorative Justice will "always be a work in progress", evolving with a changing society but what remains fundamental is the "balancing act" between providing and protecting the needs of the three agents to Restorative Justice: the victim, the offender and society. Salvosa stands at the interface between the sectors and his insight into the justice system has grown out of both professional and personal experience. In his role with the The Consuelo Foundation he has been at the forefront of developing Juvenile Restorative Justice system; working to understand the causes of crime, recognising the efficacy of rehabilitation programmes and gaining an empathy and understanding of the offender. Yet in his personal life he has struggled with the loss of his brother as a victim of crime and this pain has raised questions and conflicts. Salvosa acknowledges the existence of the antagonism between the rational and the emotional, confessing "that's the contradiction in my life". Nonetheless, he affirms "I really believe in Restorative Justice".

The cycle of Restorative Justice considers the causes and consequences of crime. It aims to address the needs of all parties equally and emphasizes the value of all in society to participate in the restorative process. Restorative Justice is founded on the principle of balancing and representing the needs of the victim, the offender and society. To function effectively, Restorative Justice must therefore listen to the diversity of the voices and acknowledge the words spoken from experience.

Sabha MacManus and Sophie C. Millner are in the Philippines under the internship program of the Centre for Capital Punishment Studies based at the University of Westminster, London. They are working on a paper on restorative justice in the Philippines.

IS THERE A GLIMMER OF HOPE FOR PHILIPPINE EDUCATION?

■ By **CAROLIZA TULOD-PETEROS**

IT'S THE perpetual June refrain: images and stories about the sorry state of Philippine education. As depressing as the rains and the accompanying floods that mark the coming of June are the litanies of woe: overcrowded classrooms; lack of teachers, seats and textbooks; dilapidated schools, or in worst cases, makeshift classrooms under trees, bleachers or other open spaces.

Splashed on television screens or newspapers are faces of underpaid and overworked teachers, dutifully reporting for work and welcoming their students – some 50 per class for the lucky ones, as many as 123 for the hapless others; of organized students holding street protests against tuition fee hikes and budget cuts in public education; of tables and graphs showing increasing drop-out rates of students from elementary to college and the exodus of students from private to public schools due to the high costs of private education.

What else is new in this grim picture?

Of recent concern is the declining performance of students especially in Math and Science tests as revealed in the results of the international Trends in Math and Science Study (TIMSS) administered by the National Center for Education Statistics (NCES) under the US Department of Education.

Here are some of the test results for eighth graders (equivalent to second year high school in our system):

Subject	Filipino Students	International Average
Math	35%	44%
Algebra	23%	45%
Earth Science	38%	62%
Chemistry	5%	46%

Photo by PEPITO D. FRIAS

According to Professor Michael Tan, the tests are designed to probe the "PSI" or the Problem Solving and Inquiry Tasks of students, that is, how students are able to integrate information in various math and science fields. "The TIMSS results warn us that we could lose our edge for the overseas labor market, even as we stagnate with domestic development because the next generation won't be able to tackle simple problems that require literacy in math and science," Professor Tan said.

Former Education Undersecretary Juan Miguel Luz registered a similar concern when he said that "we as a country cannot allow this to continue if we are to build a foundation for development, growth and equity to deal with

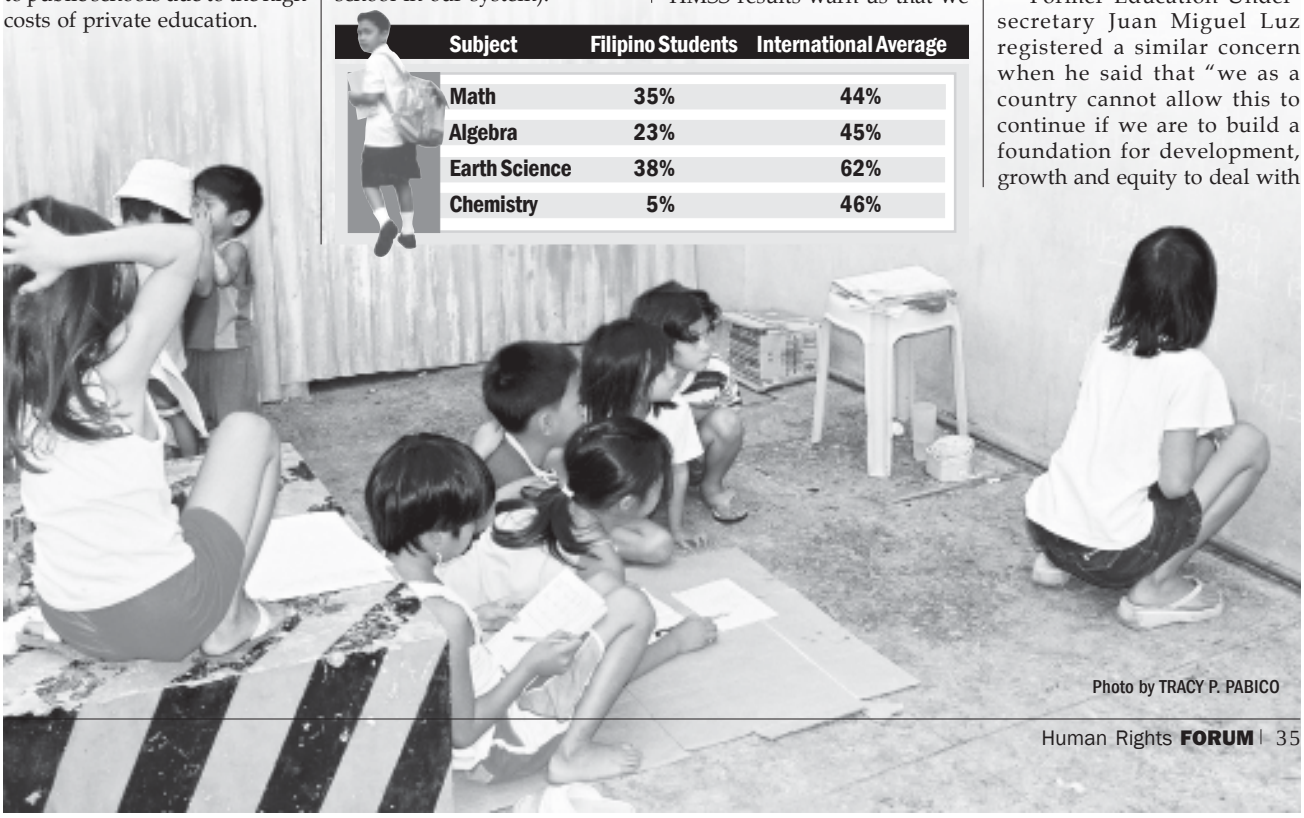


Photo by TRACY P. PABICO

our many problems that range from eradicating poverty to being internationally competitive".

The challenge is tough

The best and the brightest of our math and science teachers have left the country for the US, with its attractive compensation package including relocation of the whole family. Indeed, who will not jump at this opportunity not only to earn dollars but also to relocate to what is ordinarily believed to be "the land of milk and honey"? A look at the applicants in the recruitment agencies is very telling: even those already holding administrative positions (such as principals and supervisors) are lining up for classroom jobs in the US. The number of teachers leaving their posts for greener pastures abroad has risen five times from 1992-2002. From 2002-2005, a total of 2,705 Filipino teachers were admitted to the US. Fifty more were employed by Japan. And it is projected to continue.

The recent announcement of the US that it needs 200,000 teachers annually certainly bodes ill for our education system.

Given the dismal budget in education, with only P102.63 billion or 11.30 percent allocation from last year's national budget, is there hope that teachers will get their much deserved pay increase (the last one was in 2000 yet), if only to motivate them to keep their posts and help educate our growing up population?

Another factor is the lack of competencies of recently graduated teachers. In the 2003 Licensure Exams for Teachers, only 26% of the 100,000 examinees for both elementary and secondary education passed. If would-be teachers are flunking the tests, it is no wonder that the students are also not making the grade in international-standard exams. The role of teachers is the "single most influential factor" behind a student's performance, a world bank study emphasized.

But what can one expect of the quality of instruction when teachers tasked to handle a science class for example, are not science majors?

Teachers tend to spend more time doing unnecessary exams and tasks, losing precious hours which could have been spent on in-depth lectures or problem-solving exercises according to a study by the Department of Education. This is not surprising because data from DepEd shows that only 42 percent of those teaching General Science are science majors; 44 percent in Biology, 34 percent in Chemistry and 27 percent in Physics.

Is there a glimmer of hope?

Government response

On the issue of classroom shortage, Senate and Congress reached a consensus to increase DepEd's budget for 2006-2007 by P2 billion for school buildings. Lack of classrooms was highlighted when President Gloria Macapagal-Arroyo scolded Acting DepEd Secretary Fe Hidalgo for admitting a backlog of 6,832 classrooms on a 45:1 pupil - classroom ratio. However, to address the real classroom shortage of 74,115, an estimated P29 billion would be needed, assuming each classroom would cost P400,000.

Another strategy adopted by government to address classroom shortage is "double shifting," where a classroom is used twice a day. In some overly-populated schools, classrooms are used in three shifts. Through this, the classroom-to-student ratio became twice the ideal number of students per class. This was adopted as an "interim strategy" under Secretary Edilberto de Jesus. While this strategy effectively hides the appalling classroom shortage figures, it comes at the price of decreased instruction hours and inconvenient teaching and learning hours (imagine taking an algebra quiz at 5 in the morning, or a physical education class at 12 noon).

Expanding the Government Assistance to Students and Teachers in Private Education (GASTPE) is another remedy. The fund, managed by the Fund for Assistance to Private Education (FAPE), is an annual subsidy to private high schools. It enables students from lower income families

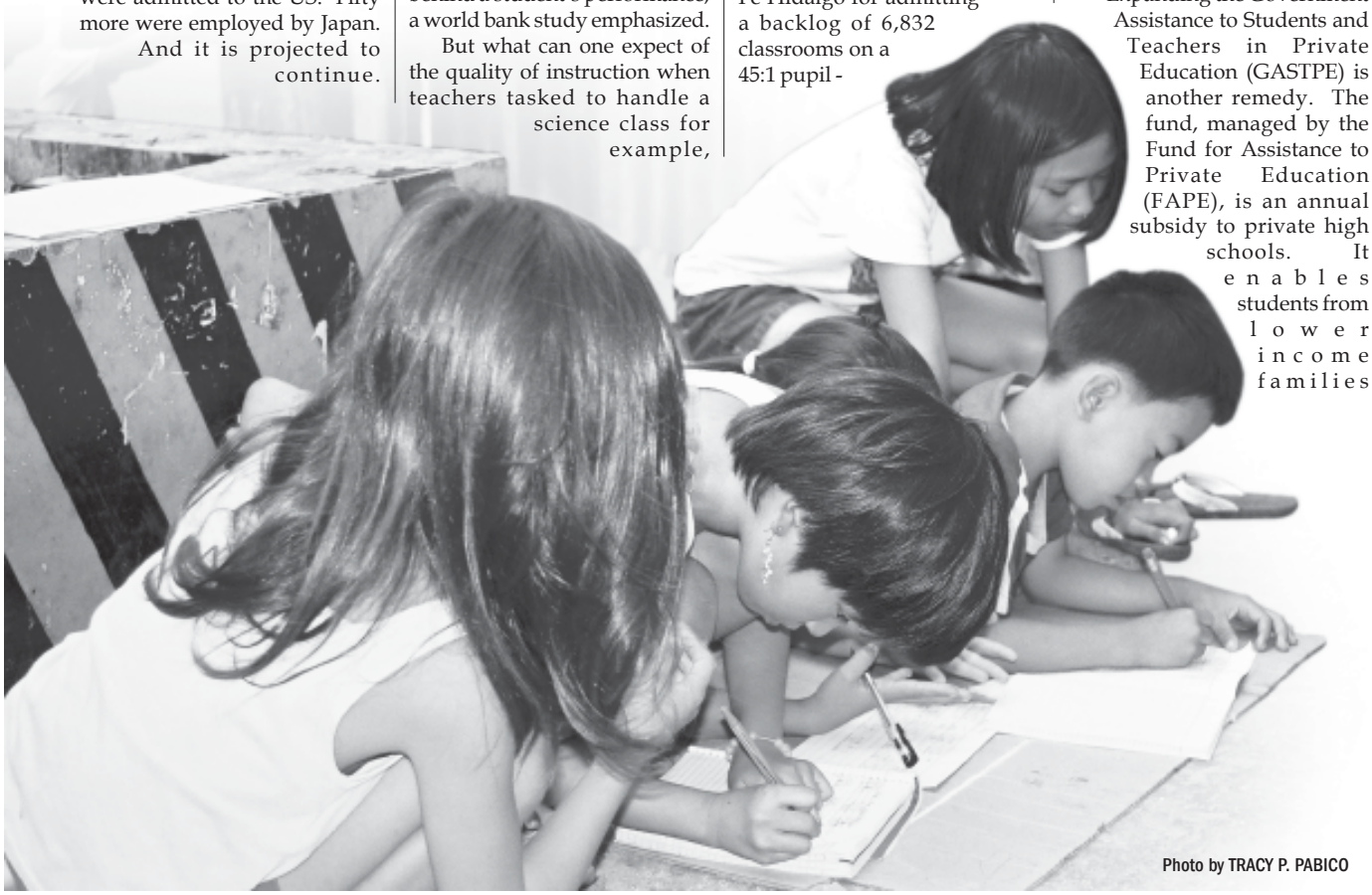


Photo by TRACY P. PABICO

with an annual income of less than P72,000 to enroll in private schools. DepEd thinks this is less costly compared to building classrooms and hiring more teachers. Only P200,000 is spent for a class of 50 under GASTPE while P625,000 is needed to build a new classroom for 50 students, hire new teachers, and procure furniture and books. But there is a limit to the number of students that the private schools can accommodate. Eventually, the problem of lack of public classrooms would have to be faced, and solved.

To prevent state universities and colleges from raising tuition, President Arroyo ordered the Budget Department to release P285 million as a "tuition support fund".

Initiatives from the private sector and citizens

In Dumingag, Zamboanga del Sur, the Parents and Teachers Association (PTA) of its National High School contributed money to pay for salaries of teachers as well as classroom renovation. They will also raise funds to pay for the construction of nipa huts as temporary classrooms while the DepEd makes good its promise to build two more classrooms this year. At a glance, such community initiative may seem laudable. It is a testament to the determination of parents who want to see their children get an education. However, such initiatives are also glaring manifestations of the government's inability to provide education for its young population, not to mention the fact that it increases the burden on low-income parents.

The Federation of Filipino Chinese Chambers of Commerce and Industry, Inc. (PCCCII), the biggest and longest-running private donor of classrooms (it claims to have donated a total of 3,200 two-room schoolhouses since 1960), promised to make sure that Divisoria sells cheapest notebooks at P8.50 each.

Ayala Foundation, with its "Gilas" (acronym for Gearing Up Internet Literacy and Access for Students) project, a P1.5 billion fund that seeks to connect 5,500 schools nationwide to the Internet, is now assisting 780 schools nationwide. Most of the beneficiary schools are in Mindanao. Schools that have mediocre library materials stand to benefit from this project, as the beneficiary schools will be connected to a virtual library.

On cold hard floors (previous page) or rickety benches (this page), young Filipinos toil over their education.

Photo by PEPITO D. FRIAS

The number of teachers leaving their posts for greener pastures abroad has risen five times from 1992-2002.

There's also the Foundation for the Upgrading of Teachers (FUSE) established by Sen. Edgardo Angara, former Agriculture Secretary Salvador Escudero and businessman Lucio Tan that produced instructional materials for teachers. The Worldwide People Power Foundation has also a masterpiece program called "Mentoring the Mentors", with modules to upgrade the skills of classroom teachers as well as boost their morale.

There are other initiatives on the ground like those addressing the educational needs of indigenous peoples and other sectors initiated by different non-government organizations. But citizen's initiatives and private sector support strewn here and there can only shore up a collapsing education sector in the short-term.

Ultimately, the responsibility lies in government. Education is a right, and the government has the obligation to fulfill that right. The people must continue to creatively and consistently undertake pro-active actions to put government on its heels to address this alarming state of the education, if we want to move forward and entrust the fate of our nation to ably-educated young people.

SOURCES:

Burgonio, TJ. ***Congress adds P4B to budget of DepEd.*** Philippine Daily Inquirer, June 5, 2006; p. A23.

Contreras, Volt. ***Teachers may be RP education's weak link.*** Philippine Daily Inquirer, June 5, 2006; p. A22.

Del Mundo, Fernando. ***Learning test scores below world average.*** I Team Report, Philippine Daily Inquirer. June 5, 2006; p. A22.

Editorial. ***School blues.*** Manila Standard, June 5, 2006; p. 6.

Luz, Juan Miguel. ***Playing with shortage***. Philippine Daily Inquirer, June 5, 2006; p.A15.

Osorio, Estelle Ople. ***When our teachers say goodbye.*** Philippine Daily Inquirer, June 4, 2006.

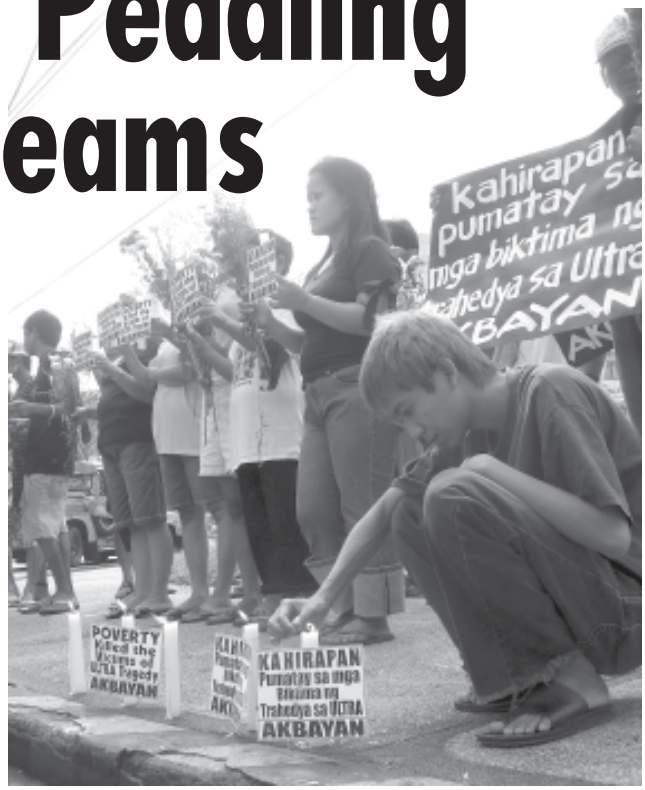
Philippine Human Rights Information Center (PhilRights)**.** ***Education: Still a non-priority.*** In Focus; pp. 13-18.

Sarcauga, Michael. ***School copes with classroom shortage.*** Philippine Daily Inquirer, June 18, 2006; p. A21.

Solmerin, Florante S. ***Ranks of college dropouts swelling.*** Today, June 19, 2006; p. A4.

AMUSED TO DEATH: The Perils of Peddling Noontime Dreams

IN HIS [belated] critique of the television industry, American media scholar Neil Postman called attention to the pernicious effects of TV on the public mind. His 1985 book, "Amusing Ourselves to Death: Public Discourse in the Age of Show Business," describes the dangers of a TV-saturated world, where even politics and governance, religion, education and public information – public affairs in general – are reduced to the idiocy of show business. Specifically, he lamented the loss of rationality and the trampling of reason because the television – that pervasive purveyor of entertainment (or what passes off as entertainment) and fondly called the idiot box, and not for whimsical reasons – has already taken over the governance of day-to-day life.



Stating the obvious: **activists remind president Arroyo the real cause of the Ultra stampede (this & next page).** Photos by AKBAYAN

Postman was of course aiming for hyperbole when he titled his book on TV "Amusing Ourselves to Death." He had no way of knowing that more than two decades after publishing his book, in a poorer part of globe, some 71 Filipinos would actually die – trampled to death – while trying to get into a TV show. He did not foresee that people could actually die because of a TV program because there was no way that he could have imagined the misery and desperation of a population that would cling to television for their hope and daily survival.

What is now remembered as the ULTRA tragedy, that February 4, 2006 morning, would perhaps go down as the worst instance of TV entertainment gone wrong.

A tragedy lurking in the corner

As some observers noted, it was a tragedy waiting to happen. For four or five days before that grisly Saturday morning, tens of thousands of people were already massed up outside the gates of the Philsports Arena (also called ULTRA) in Pasig City.

Louie Montalbo, a professor at the Ateneo Graduate School of Business, lives right across the ULTRA gate. He saw how the crowd swelled up over the days. He recalls that as early as Wednesday night (February 1), people were already beginning to mass up outside the gates (Other reports say that the waiting outside the gates started on January 30, Monday). By midnight of Friday (February 3), he noted that "the lines that were formed during the past days began to spill over the roads such that those entering the village where I lived could not bring in their vehicles and were forced to walk." He "assessed that unless something is done[…], people will get hurt."

Montalbo also recalls that a friend of his "who first saw the crowd thought that they were victims of a fire. They looked that desolate, that desperate."

That "desolate and desperate" swarm of "old women, children, mothers carrying babies" who slept on sidewalks, braved the cold nights, with little food, and meager toilet facilities, as Montalbo describes them, were waiting to be

allowed inside the stadium for the February 4, 2006 livecast of ABS-CBN's noon-time show *Wowowee*. They had been lured there by the promises of big prizes. It was to be the show's first anniversary, and by way of hoopla, it promised its audience a P1-million cash prize and other give-aways including two house-and-lots, 15 passenger jeepneys, two taxicabs with franchises, and 20 tricycles. Not only that, the show also promised that "early birds" will have raffle tickets to "door prizes" of as much as P20,000.00. Altogether, some P4 million in prizes were to be generously doled out that day.

'Walang uuwi ng luhaan'

No wonder thousands of people – almost all of them from the impoverished communities within and near Metro Manila – flocked to the venue, with dreams of having a crack at the show's largesse. And no wonder each one of those who staked out their respective places for several days and nights outside the ULTRA wanted to be among the first to enter the stadium. The program host, Willie Revillame, had reportedly drummed up interest in the anniversary show by promising prizes galore, with the guarantee that "*Dito walang matatalo, laging may pera"* (literally, 'here [in Wowowee] no one goes bust, there is always money') " and that "*Walang uuwi ng luhaan"* (literally, 'no one will go home in tears'). Like a super-benevolent philanthropist speaking to a bunch of orphans, he further described the upcoming ULTRA show as "*parang Pasko*" ('just like Christmas') whether one is inside or outside the venue.

By Saturday morning, there was an estimated mass of more than 30,000 people waiting outside the two gates (other estimates put the mammoth crowd at 50,000). But the stadium could only accommodate about half of that number. Outside the gates, people were wedged hard against each other that it was not

even possible to lift an arm to take a sip of bottled water, according to accounts. Most of those in the crowd had been camped out for days in the streets, without adequate food, exposed to the elements. Hungry, sleepless and tired, each one was understandably anxious to pass through the gate.

What happened at around 6:30 at the stadium gate need not be described anymore.

The early morning stampede would leave 71 fatalities (according to the National Bureau of Investigation report), either crushed against a closed steel gate at the bottom of a slope leading towards the stadium, or trampled underfoot. Of those who died, 68 were women (one of them pregnant). The youngest fatality was four years old; the oldest, 81. The majority of those who were crushed and clomped to death were over the age of 50.

Over 600 others would suffer injuries.

According to official reports, the stampede was triggered by an announcement by the organizers that only the first few hundreds to enter the venue would get tickets, which in turn would entitle the holder to participate in the contests that would pick out the winners of the promised prizes.

On that day, and the succeeding days after, the entire nation watched in horror at the pictures and footage of the tragedy.

Responses

As fatalities started piling up in morgues and the wounded reached the hospitals, local and national authorities, along with the TV network, each responded in character.

ABS-CBN, the producer of Wowowee, promised to shoulder the funeral expenses of the victims and the medical treatment of those injured, even as network management denied that lack of security personnel at the venue caused the stampede.

But it was only by noontime that the cancellation of the anniversary extravaganza would be announced.

President Arroyo for her part ordered a speedy investigation of the tragedy. She required the investigation task force, headed by Marius Corpuz, Interior and Local Government undersecretary for public safety, to submit its report within 72 hours. The president assured the victims' relatives that "the ends of criminal and social justice will be served and those responsible will be taken account for their negligence or misdeeds." Later on, in an interview over dzRH radio, she would point out that the stampede showed the organizer's "inadequacy and negligence".

Politicians were also quick to contribute to the din of reactions. Senator Miriam Santiago, for example, called for a Senate inquiry "in aid of legislation."

More remarkable was the public reaction. Unfettered by any corporate or political interests, public reaction went right to the heart of the matter, and perceived with unerring clarity the true cause of the tragedy. In jeepneys and street-corners, in the "text" messages that circulated and the blogs that were posted, critical minds accurately identified the real tragedy, the bigger tragedy in which the carnage at ULTRA is but one in a chain of daily tragedies: the extreme poverty, desperation and hopelessness of the majority of the Filipinos. The sight of so many bodies lined up in the streets and sidewalk "like fish in the market" painfully made people realize the extent of desperation of countless Filipinos who would cling even to the enticements of a Willie Revillame. To a lot of people, what happened at ULTRA proved how inutile the government's poverty alleviation agenda really was.

Out of the horrified reaction came a cackle of calls for poverty reduction programs, specifically the creation of more jobs.

It likewise made the public realize the extent to which television programs have degenerated, in which the viewing audience has simply become commodities in the ratings war and the mad scramble for commercial sponsorship. Hopes were even voiced that the network gods would reassess and initiate changes in their programming, in the light of the tragic outcome of the anniversary hoopla.

Such realizations are of course dangerous. The Arroyo administration hastily dismissed the attempts to hold the government accountable for any poverty-induced tragedy. A chorus of similar avowals also came from administration-allied politicians, who asked Arroyo critics not to the use the government as a scapegoat for the stampede, or to use the tragedy as a staging-point from which to pounce on the Arroyo administration.

The giant TV network,

caught in a PR nightmare, could only reiterate its avowed noble objective. Host Revillame assured the public that they "just wanted to help and entertain" the poor, and that they did not expect anything like it to happen. Media reports described Revillame as "tearful" when he said these.

After the mad rush

By Tuesday, February 7, the Ultra task force submitted its report to the Department of Justice. The task force essentially held the TV network responsible for the tragedy, pointing out the lack of contingency plans for an event where tens of thousands are expected. According to the fact-finding team, the absence of such a plan "borders on irresponsible and incompetent management…at best, to criminal negligence and endangerment leading to the loss of life at worst."

In a statement that would be quoted again and again by the media, Undersecretary Corpus, the task force head, said that "The decision of offering so few tickets to so many people can be likened to throwing a piece of meat to a hungry pack of wolves."

The crowd, according to Corpuz, "were exploited, manipulated and treated like animals" by the event organizers.

In its own investigation, concluded about a month after the stampede, the NBI recommended to the Department of Justice (DOJ) the filing of criminal charges against 17 persons. Twelve of them are officers and employees of ABS-CBN, including host Revillame. The other five included ULTRA officials.

The NBI report concluded that several network executives led by Executive Vice President Charo Santos-Concio were liable for "reckless imprudence resulting to (sic) multiple homicide and multiple injuries." It also recommended that administrative charges be filed against Pasig City Mayor Vicente Eusebio for his failure to require ABS-CBN to submit a security plan before issuing a permit. The NBI however absolved the Metro Manila Development Authority and the police, saying the network did not coordinate with the MMDA and that what happened was not a breakdown in peace and order but "a failure in crowd control management."

Photo by AKBAYAN

The NBI report, naturally, did not please a number of the victims and their families, who wanted ABS-CBN chair and CEO Eugenio Lopez III and Pasig police chief Raul Medina named among the culprits.

It was on the basis of the NBI's report that the DOJ opened in late March 2006 its preliminary investigation to determine probable cause of criminal negligence.

The Lopez-owned network promptly challenged the DOJ, claiming "institutional bias" on the part of the latter. In its petition before the Court of Appeals, ABS-CBN claimed that the DOJ had already "prejudged the case." Barely starting on its investigation, the DOJ immediately received a restraining order from the CA. (The order would stay for more than two months. The CA finally decided in late May that the DOJ may continue with its investigation.) NBI officials, however, knew that the restraining order was just part of the network's strategy "to bide time" while it negotiated an amicable settlement with the victims.

The authorities had reason to be jittery. Even as the tele-vision network was drowned to the gills in an injuriously-negative PR (and with a damaging lawsuit hanging over it), it was also industriously cultivating the stampede victims themselves. Within a few days of the tragedy, it put up "71 Dreams Foundation." The foundation will "provide long-term aid not just to the families of those who died in the stampede but also to other less fortunate people," according to Fr. Carmelo Caluag, member of the ABS-CBN board of directors. Aside from material aid and monitoring, the foundation will also continually give support in the form of livelihood and education. Fr. Caluag empha-sized that it will not be a dole-out. He described the founda-tion's vision using the trite "teaching them to fish" catchphrase.

Together with this overwhelming concern for the victims and their families, ABS-CBN was also busy crafting an out-of-court settlement. It initiated talks with the relatives of the 71 who perished and 900 other victims to settle civil liabilities.

If successful, this amicable settlement could lead to the dropping of the criminal case against those identified by the NBI as liable for the stampede. Ferdinand Lavin, an NBI official, told the media that "Because most of the victims are marginalized, they would be more than willing to talk things out with ABS-CBN to get financial assistance instead of spending more money to attend hearings at the DOJ."

After the weeping

More than five months have already passed after that stampede. It is perhaps time enough to ask: what has happened since then? What did we gain from all those howls of outrage? What happened to the righteous indignation and the cries for justice, for serious action to end mass poverty and for an end to exploitative, demeaning and dehumanizing TV shows?

By March, Wowowee was back on air. For ABS-CBN and Revillame must obey that old showbiz dictum: the show must go on. Even if it be on the graves of someone's grandmother. As network executives explained, there was "audience demand" for the re-airing of the show.

A cursory search through the news archives is very telling. The Wowowee tragedy certainly occupied the news in February and March. But by April, not much was being said about it in the national media. By June, the stampede had largely faded from the news pages. Sheila Coronel of the Philippine Center for Investigative Journalism (PCIJ) knew that this was going to happen. In her blog of February 4, she describes the predictability of the news cycle on disasters:

> First the story breaks, followed by heartbreaking scenes from the disaster zone, an estimate of the casualty count and then reports on the government's and citizens' response. The next phase of the news cycle will likely be the blame-throwing, the attack and the defense. After about a week or 10 days, the story will likely slide out of top of the newscast and the front

pages. The media will move on to the next headline-grabber and the tragedy will be recalled maybe a year after, on its first anniversary, or will merit a one-liner the next time a similar event occurs. Such is life. Such is news.

Meanwhile, the derailed DOJ preliminary investigation resumed on June 1. The DOJ seems determined to bring it to a speedy close. The bigger legal battle will follow, when the case reaches the court. ABS-CBN, whose legal team is headed by no less than a former DOJ undersecretary, is only expected to throw all its resources, not only its legal arsenal, into its defense.

For the stampede victims, it will be a long, long wait for justice.

If justice is at all forthcoming.

In the meantime, it's showbusiness as usual. – *jmvillero*

SOURCES:

Coronel, S. Wowowee: *A Filipino tragedy*. http://www.pcij.org/blog/?p=584 (posted Feb. 4, 2006).

Coronel, S. *Wowowee and the women of 200 P. de la Cruz St*. http://pcij.org/i-report/6/wowowee.html.

http://arabnews.com

http://news.inq7.net/nation/index.php?index=1&story_id=65253

http://wowowee.blogspot.com

http://www.abs-cbnnews.com

http://www.inq7.net/specialfeatures/ultrastampede/archive.php

http://www.malaya.com.ph

http://www.manilatimes.net

http://www.thenewstoday

Montalbo, L. (Feb. 8, 2006). *The ULTRA stampede – A shameful indictment*. http://www.ipd.ph/features/2006/stampede.html

Postman, N. (1985). *Amusing ourselves to death: Public discourse in the age of show business*. New York: Penguin Books.

Let's NOT talk about sex

Photo by PEPITO D. FRIAS

■ By **CAROLIZA TULOD-PETEROS**

BARELY A week after classes opened, the Education Department found itself in hot waters – not because of the perennial problems concerning classroom shortage and textbooks, but over a lesson guide on adolescent reproductive health perceived by the catholic church to be promoting premarital sex.

A population education concept, the lesson guides were produced by the Bureau of Secondary Education and Tridev Specialists Foundation, Inc. in cooperation with the United Nations Fund on Population Activities and the David & Lucille Packard Foundation.

In her foreword to the lesson guides, Acting Education Secretary Fe Hidalgo noted that "the reproductive health needs of adolescents as a group have been largely ignored to date by reproductive health service providers." She argued that "information and services should be made available...to help them understand their sexuality and protect them from unwanted pregnancies, sexually transmitted infections and subsequent risk of infertility."

It was on this basis that the prototype lesson plans were made, integrating population education concepts in subject areas as Health, Araling Panlipunan, Technology and Livelihood Education, Science, English and Filipino. Called a "positive step" by the UN Fund for Population Activities, the plan to integrate sex education into existing school subjects would have required teachers to discuss issues like overpopulation, the dangers of pre-marital sex and unwanted pregnancy.

According to TRIDEV, the lesson guides were developed through the Youth Educators and Advocates for Reproductive Health (YEAH) project, a participatory campus and community-based adolescent endeavor that aims to make appropriate and friendly sexual and reproductive health information and services accessible.

The project was initially implemented in Parañaque City and Pateros.

What's the fuss, children?

The Catholic Bishops Conference of the Philippines (CBCP), through its Episcopal Commission on Family and Life represented by Dr. Angelita Aquirre, Head of Human Life International, was disturbed by the inclusion of sex education in the high schools.

According to Aguirre, "the subject is devoid of full disclosure and truth-telling because it fails to inform the students that condom does not guarantee 100 percent protection from sexually transmitted diseases."

The catholic bishops objected to the introduction of sex education because, they maintained, this would encourage teenagers to engage in premarital sex rather than remain abstinent. The bishops emphasized that the government had no business teaching the youth about such topics because, they said, sex education is the parents' responsibility.

What is more objectionable to the catholic hierarchy is that the sex education program discusses artificial contraceptives and condom use, which violates the catholic church's "teachings on human sexuality."

In defending the program, acting Secretary Hidalgo stressed that the education department "is not tolerating pre-marital sex." "What we are doing is telling them the consequences of such acts and what should be done," she said. It's purpose is to educate young adults on "their physical, mental and social well-being."

Cora Echano, Assistant Chief of the Bureau of Secondary Education said that the CBCP in particular called their attention to pages 50-57 of the module. This is a lesson plan in Science II (Biology). The general objectives include understanding the process of human reproduction and the ill-effects of Sexually Transmitted Infection (STI). It contains a discussion on the human reproductive system, a reading on common forms of sexually transmitted diseases and ways of preventing STIs, stated as "ways of promoting safer sex".

Ms. Echano for her part, being one of those involved in the project, felt that the reaction over the lesson guides was "very unfair", and in fact violated the human right of the students to proper information. She further said that the lesson guides were pilot-tested and the feedback they got from the students were very positive. The parent-teacher associations of the concerned schools were also oriented on the module and they found no harm in the material.

So young and so...active

Yet, with or without proper information and education, the Filipino youth are quite sexually active.

In its latest study on adolescent sexuality, the University of the Philippines Population Institute reported that Filipino youth are experiencing their first sexual acts as early as

the elementary years. The study, conducted in 2002, found out that premarital sex among adolescents – sex with multiple partners, unprotected sex, commercial sex and same-sex acts – increased to 27% in that year, up from 20% in 1994.

So even as DepEd is revising its sex education program under the watchful eye of the catholic church, some sectors are anxious that the implementation of such a program – if ever it gets implemented – might already be too late.

In a hearing conducted by the Senate committee on health and demography in June, Catalina Macaurog, women's sector representative of the National Anti-Poverty Commission, pointed out the obvious: that even six-year-old kids can readily get sex information from just about any source such as the tabloids and cellular phones.

And not to mention the abundance of graphic information on sex readily available on the internet.

As the Philippine Center for Investigative Journalism reports, "today's youth are exposed to sex and sexuality earlier and in larger doses," thus contributing to a shift in norms and values that make casual sex "more permissible" and making "increasingly irrelevant" the "traditional preconditions for sex such as marriage or true love."

No wonder then that the median age for sexual experimentation is getting younger. And such experimentations are usually risky and unprotected. According to the Population Commission of the Philippines (PopCom), in its State of the Philippine Population Report, 40% of first PMS and 70% of most recent PMS "were without any means of protection." Such reckless experimentation, coupled with misconceptions and incorrect information about STIs, especially HIV and AIDS, as well as other high-risk behaviors such as alcohol and drug use, are putting the young population in peril, according to UNICEF.

The PCIJ report said that despite lack of statistics and "woeful underreporting," there is reason to worry about STIs among the youth.

Aside from STIs, another cause for concern is unplanned pregnancy. About 74% of all estimated illegitimate births are

Photo by PEPITO D. FRIAS

by 15-24 year olds (21% by women in the 15-19 age group; 53% among the 20-24 age group). There are about 400,000 cases of illegal abortion every year; and for every 10 cases of recorded abortion complications, about 4 of these involve young women aged 15-24.

A sex education program might, after all, be too late by now.

But the powerful catholic hierarchy had already spoken.

So acting Education Secretary Fe Hidalgo had to stop the distribution of the modules. She also instructed the Bureau of Secondary Education to review, refine or tone down the content.

References:

• Bureau of Secondary Education, Department of Education, TRIDEV Specialists Foundation, Inc. *Lesson Guides on Adolescent Reproductive Health (A Population Education Concept)*

• Chan, Cheryl. *Perils of generation sex*. http://www.pcij.org/i-report/3/generation-sex.html

• http://www.popcom.gov.ph/sppr/sppr02/pdf/sppr02-whole.pdf

• http://www.unicef.org/philippines/archives/november_04/news/news_5.html

• Interview with Cora Echano by PhilRights.

• Papa, Alcuin. *DepEd blinks, halts controversial sex module*. Philippine Daily Inquirer, June 19, 2006, p. A10.

• Pelovello, Roy. *Study: Teens becoming sexually active earlier.* http://www.manilastandardtoday.com/?page=news05_june30_2006

• Smith, Peter. *Philippines scraps sex education in schools after Catholic opposition*. http://www.catholicexchange.com/vm/index.asp?vm_id=24&art_id=33455

• Solmerin, Florante S. *Education suspends 'sex lessons' in schools.* Today, June 19, 2006, p. A3.

Former DA undersecretary embroiled in fertilizer scam arrested in the US

■ By **CAROLIZA TULOD-PETEROS**

THE ARREST of Jocelyn "Joc-joc" Bolante, undersecretary for finance of the Department of Agriculture and accused of plunder in connection with the P728 million fertilizer fund scam, was finally executed, not by Philippine authorities, but by US immigration officials.

On July 7, 2006, upon his arrival at the Los Angeles Airport from Seoul, Korea, immigration authorities cancelled his B1-B2 visa and detained him at the San Pedro Detention Facility, a jail exclusively used for foreigners who violate immigration laws. He was also asked to post $100,000 bond for his release. Circumstances of his arrest remain a puzzle, as officials both of the US immigration and the Philippine government were silent about it. His case was heard on July 12, but details were not available as it was held in private, as requested by Bolante.

Speculations of his desire to seek asylum in the US, or possible meeting with his close friend, First Gentleman Mike Arroyo who also arrived in the US via the San Francisco airport at almost the same time of his arrival, circulated. Questions were also raised on why he was not deported or extradited back to the country upon his arrest.

Bolante's problems started when funds to buy farm inputs like fertilizer and pesticides under the *Masaganang Ani* program were released to 100 of the 236 members of the House of Representatives, 53 governors and 26 town mayors, perceived to be allies of President Arroyo, shortly before the May presidential elections.

The money was suspected to have been used to buy votes. This was bolstered by the fact that some districts who received the fund do not even have farmlands. The Commission on Audit also confirmed that the fertilizer purchase was overpriced by at least P127 million. Former Solicitor General Frank Chavez alleged that P142 million of the project amount went to the pockets of people identified to be friends of the First Gentleman.

On 13 December 2005, 19 senators cited Bolante with contempt for snubbing the Senate inquiry into the alleged fund scam and signed an order directing the Senate sergeant-at-arms to arrest and detain him.

Bolante was appointed to his post in 2001 after President Arroyo assumed power. He was director-elect of the Rotary Club of Makati where Mike Arroyo is also a member. He also held top positions in various private and government institutions such as Prudential Life Plan and Land Bank of the Philippines, among others.

SOURCES:

Enriquez, Aimee R. *The Case of Joc-joc Bolante,* http://www.asianjournal.com/?c=123&a=14309, July 15, 2006.

Esteves, Patricia. *Bolante 'hunter' dismayed.* http://www.manilatimes.net/national/2006/feb/11/yehey/top_stories/20060211top2.html, February 1, 2006.

HR TRiViA:

■ THE RIGHT WORDS

MY OWN sex, I hope, will excuse me, if I treat them like rational creatures, instead of flattering their fascinating graces, and viewing them as if they were in a state of perpetual childhood, unable to stand alone. I earnestly wish to point out in what true dignity and human happiness consists. I wish to persuade women to endeavour to acquire strength, both of mind and body, and to convince them that the soft phrases, susceptibility of heart, delicacy of sentiment, and refinement of taste, are almost synonymous with epithets of weakness, and that those beings who are only the objects of pity, and that kind of love which has been termed its sister, will soon become objects of contempt.

MARY WOLLSTONECRAFT
Introduction to
"A Vindication of the Rights of Woman"

■ IN THIS QUARTER

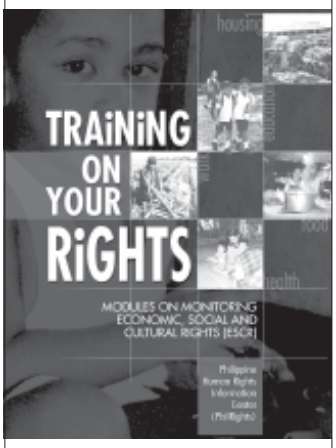
Mary Wollstonecraft was born on April 27, 1759. In a very brief but brilliant literary career most unusual to women of her time, she advocated for women's equality and rationality. She vigorously argued against the degradation and subjugation of women justified by "the arbitrary power of beauty."

Wollstonecraft's enduring contribution to the modern-day human rights and women's movement was her book, "A Vindication of the Rights of Woman." The book, written in a period of six weeks, was first published in January 1792.

Out of her personal struggles as a woman and a writer, Wollstonecraft articulated the dynamic tensions between political writing and political rights. She argued that both (writing and rights) had been "confined to the male line since Adam downward." In her writing, which cuts across genres and subject, she constantly challenged "the male birthright."

In "A Vindication...", Wollstonecraft points out that there is no difference between the minds of women and the minds of men, while conceding that the two sexes differ in bodies. She thus affirms the universality of human rights: that females are just the same as males, having the same mental capacities and therefore the same human rights. She argued that if women are no different from men, then a socio-political system that is based on and perpetuates the dependence and subjugation of one sex is therefore demeaning to everyone.

■ THE RIGHT BOOK



Training on your rights: *Modules on Monitoring Economic, Social and Cultural Rights (ESCR)*

Training on your rights consists of four modules that will equip people with the skills to monitor the realization or abuse of their rights. Also included are monitoring tools that can be used to document the extent of fulfillment of – or deficiency in – their ESC rights.

FACTS **AND** FIGURES

BASIC EDUCATION INFORMATION

SCHOOLS	SY 2006-2007
Public	41,769
Elementary	37,000
Secondary	4,769 (+700 Annexes)
Private	7,989
Elementary	4,658
Secondary	3,331
ENROLMENT	
Elementary	13,318,185
Male	6,867,388
Female	6,450,797
Secondary	6,775,400
Male	3,277,847
Female	3,497,553
SHORTAGES	
Teachers	
Elementary	4,483
Secondary	6,509
Classrooms	6,000*
Barangays without elementary school	267
Municipalities without high school	5

*number of classrooms needed to be built each year by the government in order to close the classroom gap by 2010, according to GMA in March 2006
Sources: DepEd Research and Statistics Division
Papa Alcuin, "State of RP education: Freebies are not enough", Philippine Daily Inquirer, June 4, 2006, pp. A1&A17

TUITION FEE INCREASES (2001-2006)

Year	Total no. of PHEIs*	No. of schools increasing tuition	% of total	Average % increase in tuition	Average increase in peso equivalent/ unit	Tuition fee rate/ unit
2001-2002	1,175	422	35.91	12.33	33.81	257.41
2002-2003	1,271	383	30.13	11.74	34.49	308.50
2003-2004	1,280	358	28.00	11.00	32.48	323.64
2004-2005	1,321	381	28.84	11.37	33.15	334.89
2005-2006	1,347	305	22.64	11.58	36.38	350.55
2006-2007	1,428	390	27.31	9.53	31.04	350.27

*PHEIs – Private Higher Education Institutions
Source: CHED
Leal, Zofia. " Students Suffer from High Tuition Rates, Repression Under GMA," *Bulatlat* Vol. VI No. 24 (23-29 July 2006)

Philippine Human Rights Information Center

EASTABLISHED in July 1991 by the Philippine Alliance of Human Rights Advocates (PAHRA), PhilRights seeks to undertake and disseminate human rights information, research, and analyses where and when they are needed.

As a service institution that exists for both PAHRA and the general public, PhilRights aims to:

- **Deepen awareness, knowledge, and understanding of PAHRA and the general public about human rights conditions, issues, and mechanisms;**
- **Work for a dynamic human rights movement that is able to mobilize sectors and groups for timely and effective intervention in the promotion and defense of human rights by making available human rights information and tools in information handling and dissemination;**
- **Help ensure state compliance with its human rights obligations through active monitoring and engagement;**
- **Strengthen cooperation and partnership with local and international networks in the conduct of human rights activities through lively exchange and sharing of information; and**
- **Enhance capability of human rights organizations in the promotion and defense of human rights through education and training on research, advocacy and information handling and dissemination.**

ANNOUNCEMENT

Since April 2004, the Philippine Human Rights Information Center (PhilRights) has been accepting interns for its Internship Program. The program is open to college students, researchers or professionals who are interested in doing internship work in an NGO like PhilRights. For details, please contact Mr. Pepito D. Frias, PhilRights' Training Associate at telephone numbers 433-17-14 & 436-5686.

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