

REPUBLIC OF THE PHILIPPINES  
**HOUSE OF REPRESENTATIVES**  
Fourteenth (14<sup>th</sup>) Congress  
House of Representatives Complex  
Constitution Hills, Quezon City

**IN THE MATTER OF THE  
IMPEACHMENT OF GLORIA  
MACAPAGAL-ARROYO,  
PRESIDENT OF THE REPUBLIC  
OF THE PHILIPPINES,**

**JOSE DE VENECIA III, EDITHA  
BURGOS, ERLINDA CADAPAN,  
ROLEX T. SUPLICO, JOSEFINA  
T. LICHAUCO, H. HARRY L.  
ROQUE, JR., RENATO  
CONSTANTINO, JR., HENRI S.  
KAHN, FRANCISCO ALCUAZ,  
REZ CORTEZ, VIRGILIO  
EUSTAQUIO, JOSE LUIS  
ALCUAZ, LEAH LOPEZ  
NAVARRO, CONCEPCION  
EMPENO, ELMER LABOG,  
ARMANDO L. ALBARILLO,  
ROMEO S. CLAMOR, and BEBU  
BULCHAND,**

**Complainants,**

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**IMPEACHMENT COMPLAINT**

Complainants, respectfully state:

**Prefatory**

*“Our government is the potent, the  
omnipresent teacher. For good or ill it teaches the  
whole people by its example. Crime is contagious.  
If the government becomes a law-breaker, it*

*breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy.”<sup>1</sup>*

*“What the presidency is at any particular moment depends in important measure on who is President.”<sup>2</sup>*

*“Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.”<sup>3</sup>*

From the time Gloria Macapagal-Arroyo ascended into the Presidency in 2001 and up to the present, her administration had been marred by protests and controversies, namely, People Power III (May 1, 2001), the overpriced Northrail project, the anomalous ZTE-NBN contract, “Hello Garci” Scandal, the ZTE-Diwalwal scandal, and the Swine Scandal, among others. By being involved in these controversies, respondent betrayed the public trust, committed culpable violations of the Constitution and the laws that she has sworn to uphold, and simply failed to live and lead by example.

President Arroyo is also criminally responsible for the deaths of many Filipinos by presiding over the crafting and implementation of a National Internal Security Plan, with a military component call “Oplan Bantay Laya” that has allowed state security forces to commit heinous human rights

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<sup>1</sup> Justice Louis D. Brandeis, dissenting in the case of *Olmstead vs. US*, 1928.

<sup>2</sup> *Marcos vs. Manglapus*, G.R. No. 88211, September 15, 1989

<sup>3</sup> Section 1, Article XI of the 1987 Constitution.

violations with impunity, victimizing innocent civilians, mostly leaders, and members of organizations critical to her administration.

This complaint calls for an inquiry into the conduct of the Chief Executive. It demands that a proceeding for the removal of respondent, who abused and misused and continues to abuse and misuse her executive power, be conducted by our Legislative Department, lest our country fall into anarchy.

### *Nature of the Complaint*

1. This is a verified Complaint, in the name of the Filipino people and for the Filipino people, to impeach and bring to trial Gloria Macapagal-Arroyo, President of the Republic of the Philippines, **for her betrayal of public trust, culpable violation of the Constitution, bribery, and graft and corruption**. It is being filed in accordance with the provisions of Sections 2 and 3, Article XI (on Accountability of Public Officers), of the 1987 Constitution.<sup>4</sup>

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<sup>4</sup> CONSTITUTION, ART. XI, SECTIONS 2 and 3, respectively state:

Section 2. The President, Vice-President, the Members of the Supreme Court, the Members of the Constitutional Commissions, and the Ombudsman may be removed from office, on impeachment for, and conviction of, culpable violation of the constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust. All other public officers and employees may be removed from office as provided by law, but not by impeachment.

Section 3. (1) The House of Representatives shall have the exclusive power to initiate all cases of impeachment.

(2) A verified complaint for impeachment may be filed by any Member of the House of Representatives or by any citizen upon a resolution or endorsement by any Member thereof, which shall be included in the Order of Business within ten session days, and referred to the proper Committee within three session days thereafter. The Committee, after hearing, and by a majority vote of all its

*The Parties*

2. Complainant JOSE DE VENECIA III (Joey de Venecia) is a Filipino, of legal age, with address at 1329 Palm Avenue, Dasmariñas Village, Makati City, where he may be served with legal processes.

3. He is joined in this complaint by the following complainants, who are Filipino citizens, of legal age, and residents of the Philippines:

- (i) EDITA BURGOS, mother of the desaparecido Jonas Burgos and widow of the late newspaperman and icon of press freedom in the Philippines, Jose Burgos; she may be served summons and other processes by the Justice Committee of the House of

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Members, shall submit its report to the House within sixty session days from such referral, together with the corresponding resolution. The resolution shall be calendared for consideration by the House within ten session days from receipt thereof.

(3) A vote of at least one-third of all the Members of the House shall be necessary either to affirm a favorable resolution with the Articles of Impeachment of the Committee, or override its contrary resolution. The vote of each Member shall be recorded.

(4) In case the verified complaint or resolution of impeachment is filed by at least one-third of all the Members of the House, the same shall constitute the Articles of Impeachment, and trial by the Senate shall forthwith proceed.

(5) No impeachment proceedings shall be initiated against the same official more than once within a period of one year.

(6) The Senate shall have the sole power to try and decide all cases of impeachment. When sitting for that purpose, the Senators shall be on oath or affirmation. When the President of the Philippines is on trial, the Chief Justice of the Supreme Court shall preside, but shall not vote. No person shall be convicted without the concurrence of two-thirds of all the Members of the Senate.

(7) Judgment in cases of impeachment shall not extend further than removal from office and disqualification to hold any office under the Republic of the Philippines, but the party convicted shall nevertheless be liable and subject to prosecution, trial, and punishment, according to law.

(8) The Congress shall promulgate its rules on impeachment to effectively carry out the purpose of this section.

Representatives through counsels.

- (ii) ERLINDA CADAPAN, mother of missing UP student Sherlyn Cadapan, who may be served summons and other processes by the Justice Committee of the House of Representatives through counsels.
- (iii) CONCEPCION EMPENO, mother of missing UP student Karen Empeno, who may be served summons and other processes by the Justice Committee of the House of Representatives through counsels.
- (iv) RONEO CLAMOR is the Deputy Secretary General of KARAPATAN and may be served summons and other processes by the Justice Committee of the House of Representatives through counsels.
- (v) ELMER LABOG, Chairman of Kilusang Mayo Uno (KMU), who may be served summons and other processes by the Justice Committee of the House of Representatives through counsels.
- (vi) ROLEX SUPLICO, incumbent Vice Governor of the Province of Iloilo, may be served summons and other processes through counsels.

4. Concerned citizens, namely H. Harry L. Roque, Jr., Josefina T. Lichauco, Renato Constantino Jr., Leah Lopez Navarro, Henri S. Kahn, Francisco Alcuaz, Virgilio Eustaquio, Jose Luisa Alcuaz, Armando L. Albarillo, Romeo S. Clamor and Bebu Bulchand, all of legal age and

residents of the Philippines, also join this proceeding as complainants. They may be served summons and other processes through counsels.

5. Respondent Gloria Macapagal-Arroyo ['Macapagal-Arroyo' or 'Respondent'] is the President of the Republic of the Philippines, who holds office at Malacañang Palace, Manila, where she may be served with summons and other legal processes.

### General Allegations

6. Respondent succeeded former President Joseph Ejercito Estrada as President on January 21, 2001 upon the latter's "resignation."<sup>5</sup> In 2004, respondent ran as President and "won" the presidential election. Macapagal-Arroyo continues to hold as President of the Republic of the Philippines.

7. As President of the Republic of the Philippines, she took the following oath:

"I do solemnly swear that I will faithfully and conscientiously fulfill my duties as President of the Philippines, preserve and defend its Constitution, execute its laws, do justice to every man, and consecrate myself to the service of the Nation. So help me God."<sup>6</sup>

8. Complainants accuse respondent of violating her sacred oath of office to fulfill her duties as President of the Philippines, preserve and defend its Constitution, execute its laws, do justice to every man, and

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<sup>5</sup> Estrada vs. Desierto, G.R. No. 146710-15, March 2, 2001

<sup>6</sup> Section 5, Article VII of the 1987 Constitution

consecrate herself to the service Nation. The present complaint will discuss how respondent brought the Office of the President into disrepute, thus, warranting her impeachment.

Grounds for Impeachment

**I. GLORIA MACAPAGAL-ARROYO  
BETRAYED PUBLIC TRUST.**

- A. RESPONDENT BETRAYED THE PUBLIC TRUST THROUGH HER INVOLVEMENT IN THE ZTE-NBN DEAL.
- B. RESPONDENT BETRAYED THE PUBLIC TRUST BY SELLING THE COUNTRY'S GOLD RESERVE IN MT. DIWALWAL TO THE ALREADY CONTROVERSIAL ZTE CORPORATION UNDER THE TERMS OF AN AGREEMENT THAT ARE GROSSLY DISADVANTAGEOUS TO THE COUNTRY'S INTERESTS.
- C. RESPONDENT BETRAYED THE PUBLIC TRUST BY TAMPERING WITH THE RESULTS OF THE 2004 ELECTIONS.

**II. GLORIA MACAPAGAL-ARROYO  
COMMITTED CULPABLE  
VIOLATIONS OF THE PHILIPPINE  
CONSTITUTION.**

- A. RESPONDENT COMMITTED CULPABLE VIOLATION OF THE CONSTITUTION BY ENTERING INTO THE NORTHRAIL PROJECT WITHOUT THE REQUISITE APPROVAL OF THE MONETARY

BOARD AND WITHOUT GIVING PREFERENCE TO FILIPINO LABOR AND INVESTMENT.

- B. RESPONDENT COMMITTED CULPABLE VIOLATIONS OF THE CONSTITUTION, BY CONSPIRING, DIRECTING, AND TOLERATING WITH IMPUNITY, EXTRAJUDICIAL KILLINGS, FORCED DISAPPEARANCES, TORTURE, MASSACRE, ILLEGAL ARREST AND OTHER GROSS AND SYSTEMATIC VIOLATIONS OF CIVIL AND POLITICAL RIGHTS.

**III. GLORIA MACAPAGAL-ARROYO  
MUST BE IMPEACHED AS A RESULT  
OF ACTS AMOUNTING TO BRIBERY.**

- A. RESPONDENT'S INVOLVEMENT IN THE ZTE-NBN DEAL CONSTITUTES BRIBERY.
- B. RESPONDENT COMMITTED BRIBERY WHEN SHE AUTHORIZED THE DISTRIBUTION OF BRIBE MONEY TO MEMBERS OF CONGRESS IN EXCHANGE FOR THE HASTY REFERRAL OF THE PULIDO IMPEACHMENT COMPLAINT TO PREVENT THE FILING OF A GENUINE IMPEACHMENT COMPLAINT.

**IV. GLORIA MACAPAGA-ARROYO  
MUST BE IMPEACHED FOR ACTS OF  
GRAFT AND CORRUPTION.**

- A. RESPONDENT, BY APPROVING THE OVERPRICED NORTHRAIL PROJECT, VIOLATED SECTION 3 (G) OF RA 3019.



- B. RESPONDENT, BY PROFITING FROM THE FERTILIZER SCAM, VIOLATED SECTION 3 (B) OF RA 3019.
- C. RESPONDENT, THROUGH HER INVOLVEMENT IN THE “HELLO GARCI” SCANDAL, VIOLATED SECTION 3 (A) OF RA 3019.
- D. RESPONDENT, BY ALLOWING, ENCOURAGING, ABETTING, OR OTHERWISE ACQUIESCING TO THE ILLEGAL AND IMPROPER USE OF AT LEAST P5 BILLION IN LOANS OBTAINED BY THE RURAL CREDIT GUARANTEE CORPORATION (QUEDANCOR) TO FUND HER ADMINISTRATION’S 2004 ELECTORAL COMAPAGN AND FURTHERING POLITICAL PATRONAGE, VIOLATED SECTION 3 (E) and (G) OF RA 3019.

### Discussion

#### ***I. Betrayal of Public Trust***

9. Betrayal of public trust is a new ground for impeachment found in the 1987 Constitution, as the 1935 and the 1973 Constitution did not include this ground as a basis for impeachment of a sitting President.

9. Noted constitutionalist Fr. Joaquin Bernas, S.J. explains, that the inclusion of this ground is meant to be a catch-all phrase to cover any violation of the oath of office.

Thus,

\*\*\* [T]he 1987 Constitution added the broad concept of “betrayal of public trust [as a ground for impeachment]. The phrase was intended to be a catch-all phrase to cover any violation of the oath of office. Commissioner de los Reyes, who had been responsible for the insertion of the phrase, said that it referred to all acts, even if not punishable by statute as penal offenses which would render the officer unfit to continue in office. He enumerated “betrayal of public interest, inexcusable negligence of duty, tyrannical abuse of power, breach of official duty by malfeasance or misfeasance, cronyism, favoritism, etc. to the prejudice of public interest and which tend to bring the office into disrepute. To which Romulo added “obstruction of justice”.<sup>7</sup>

*Respondent betrayed public trust by being involved in the ZTE-NBN scandal.*

10. The Zhong Xing Telecommunications Equipment-National Broadband Network (ZTE-NBN) scandal is just one of the many controversies that have eroded the people’s trust in respondent and in her administration.

11. The precursor of this project was the agreement entered into by respondent when she visited China on April 21, 2007, as reported by the Malacañang Press Office on the same date.

A copy of the Malacañang Office News Release No. 5 is attached as **Annex A.**

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<sup>7</sup> Bernas at 1113, citing II RECORD OF THE CONSTITUTIONAL CONVENTION 272.

12. According to this news release entitled “*So Much Investments, So Little Time for PGMA in China*”, respondent went to China and succeeded in getting almost a billion Pesos worth of investments in 12 hours. To quote, “she came and went *like a thief in the night* bringing with her an avalanche of Chinese investments to the tune of \$904.38 million.”

13. Among these investments were the five agreements entered into by respondent in China, namely, a cyber education project, *a supply contract for a national broadband network*, the second phase of the Angat Dam water utilization and aqueduct improvement project and the mango pulp exportation project.<sup>8</sup>

14. Department of Transportation and Communications (DOTC) Secretary Leandro Mendoza and ZTE Corporation Vice President Yu Yong inked the \$329.5 million supply contract for a national broadband network which sought to improve government communications capabilities.

15. Right from the start, acting as the *alter ego* of respondent, Secretary Mendoza, favored the Chinese Firm ZTE to undertake the multimillion-peso project. In a news account of the Philippine Daily Inquirer posted on April 19, 2007, Elmer Soneja, Assistant Secretary for Planning at the Department of Transportation and Communication (DOTC) announced that the NBN project would go to ZTE because the other

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<sup>8</sup> Please refer to paragraph 5 of Annex F.

proponent, Amsterdam Holdings Inc. (AHI) purportedly did not submit a complete proposal.

A copy of the article entitled “NBN Proponent Braves for NAIA 3, Part 2” is attached as **Annex B**.

16. This, notwithstanding the irregularities of the proposal of the ZTE and the offer of other companies to undertake the project at a much lower cost. Most blatant however was the lack of proper bidding procedures before awarding the contract to ZTE.

17. Republic Act No. 9184, otherwise known as “*An Act Providing for the Modernization and Regulation of the Procurement Activities of the Government and for Other Purposes*” provides that “*all procurement must be done through competitive bidding*”<sup>9</sup>, save those exceptions mentioned in Article XVI, to which the NBN project does not apply.<sup>10</sup>

18. Upon discovering this, Senate Minority Floor Leader Aquilino Pimentel sought an explanation from Malacañang and the DOTC as to why the government entered into the \$329 million contract with ZTE Corporation for the setting up of a National Broadband Network in the face of the irregularities that have tainted the deal.

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<sup>9</sup> Article IV, Section 10, Republic Act No. 9184

<sup>10</sup>The exception to the competitive bidding procedures is found in Article XVI, Sec.48 which lists the alternative methods of Procurement as follows: (a) Limited Source Bidding, otherwise known as Selective Bidding; (b) Direct Contracting otherwise known as Single Source Procurement; (c) Repeat Order; (d) Shopping; (e) Negotiated Procurement

19. Pimentel said that ZTE Corp. has been repeatedly accused of bribing officials in host countries in exchange for expensive contracts. He said that the telecommunications firm was also charged of falsifying its bid papers to make it appear that it is China's biggest telecom supplier, although it is not. In other cases, ZTE was accused of violating corporate laws and unfair competition.

20. In yet another call to have another bidding and to stop the Government from awarding the contract to ZTE, Senator Pimentel called for the scrapping of the government's deal with China's ZTE Corporation. Pimentel said that the NBN deal has become indefensible and not worth pursuing, in view of revelations that its terms and conditions are grossly disadvantageous to the government and because it was not subjected to public bidding, in blatant violation of Philippine laws.

Copies of the articles entitled "Palace, DOTC asked to explain why Telecom Project was awarded to Chinese Firm despite its Tainted Record" and "Arroyo Government urged to Rebid Telecom Project" are attached as **Annexes C and D**, respectively.

21. All these were happening under the direction of respondent. She was aware of the project because she was the one who closed the deal on this so-called "investment." In the controversy surrounding the deal, it became clear that it would have been impossible for the President not to

know the irregularity surrounding the contract. As important as the contract was, respondent should have ordered her cabinet men to correct and to ensure it underwent proper bidding procedures.

22. However, even assuming for the sake of argument that the President does not *actually* know of the irregularities surrounding the NBN ZTE deal (which assumption has already been disproven), she cannot evade responsibility considering that the acts of her Department head is deemed her act.

23. The Supreme Court taught us in the early case of Villena vs. Secretary of Interior<sup>11</sup> that:

“All executive and administrative organizations are adjuncts of the Executive Department, the heads of the various executive departments are assistants and agents of the Chief executive, and except in cases where the Chief Executive is required by the Constitution or law to act in person or the exigencies of the situation demand that he act personally, the multifarious executive and administrative functions of the Chief Executive are performed by and through the executive departments, and the acts of the secretaries of such departments performed and promulgated in the regular course of business, are, unless disapproved or reprobated by the Chief Executive presumptively the acts of the President.” [Underscoring supplied]

24. Any act, therefore, of the DOTC in awarding the contract to ZTE, without competitive bidding and in blatant violation of the law on procurement, was the act of respondent.

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<sup>11</sup> 67 Phil. 451

25. Betrayal of public trust as a ground for impeachment is intended to be a catch-all phrase to cover any violation of the oath of office. When the President took her oath, she swore that she will faithfully and conscientiously execute the laws of the Republic of the Philippines.

26. The President not only failed to implement the law, she, more importantly, violated the law which she was tasked to do.

*Respondent betrayed the public trust by selling the country's gold reserve in Mt. Diwalwal to China's already controversial ZTE corporation under the terms of an agreement that are grossly disadvantageous to the country's interests.*

27. Respondent herself signed through her agent, Trade Secretary Peter Favila, a Memorandum of Understanding (MOU) with ZTE effectively giving away 90 percent of the country's gold reserve in Mt. Diwalwal, Compostela Valley.

28. Sec. Favila represented Mrs. Arroyo while Fan Yan, the same ZTE official mentioned in the Senate investigation on the botched \$329 million national broadband network (NBN) deal, signed the MOU on behalf of the Chinese corporation.

29. The country stands to lose in the agreement because based on a P200-million study conducted by the Philippine Mining Development Corp.,

the gold reserve in Mt. Diwalwal is worth at least \$1 billion. The government, under the agreement, is only entitled to 10 percent of the find while ZTE, an entity which virtually has no experience in the mining sector, gets the lion share of 90 percent. For this, respondent is likewise liable for graft and corruption.

30. Moreover, the respondent, through her agent, Sec. Favila, betrayed the public trust when she agreed to a provision in the five-page MOU requiring that the deal should be kept from the Filipino people.<sup>12</sup>

*Respondent betrayed public trust by tampering with the results of the 2004 Elections.*

31. On May 10, 2004, the Filipino people became victim of massive election fraud and cheating. And the culprit is the respondent.

32. So good was respondent at her “game” that she almost got away with it. It took more than 12 months before the unconscionable election rigging by the respondent was exposed.

33. In the middle of 2005, Samuel Ong, a former deputy director of the country's National Bureau of Investigation (NBI) claimed to have audio tapes of wiretapped conversations between President Arroyo and Virgilio, Garcillano, an official of the Commission on Elections (COMELEC).

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<sup>12</sup> See Gov't giving away 90% of Mt. Diwalwal gold in ZTE mining deal, at <http://news.abs-cbn.com/nation/09/13/08/govt-giving-away-90-mt-diwalwal-gold-zte-mining-deal> <last visited Oct. 10, 2008>).



According to Ong, the contents of the tape prove that the 2004 national election was rigged by Arroyo to win by around one million votes.

34. At first, respondent, through her spokesperson, denied it. But when evidence thereon was produced, respondent was left with no choice but to admit her having speaking with Garcillano. Thus, On June 27, respondent publicly admitted to inappropriately speaking to Garcillano, claiming it was a “lapse in judgment,” but denied influencing the outcome of the election.

35. Two witnesses, Antonio Rasalan and Clinton Colcol, stepped forward in August 2006, claiming involvement in an alleged plot to alter the results for the May 2004 elections.

- a) Rasalan claimed that he was fully convinced that the election returns submitted to the House of Representatives were manufactured and had replaced the original documents.

A video clip of the statement of Antonio Rasalan is attached as **Annex E**.

- b) Colcol, a tabulator for the COMELEC said that Arroyo only received 1,445 votes, while opponent Fernando Poe, Jr. received 2,141 in South Upi, Maguindanao during the May 2004 elections.

A video clip of the statement of Clinton Colcol is attached as **Annex F**.

36. Despite respondent’s denial of her involvement in that act of interference constituting electoral fraud, the Filipino people believed otherwise. On January 25, 2008, a Pulse Asia survey found that fifty-eight

percent (58%) of Filipinos in Mindanao were of the opinion that President Gloria Macapagal-Arroyo cheated in the 2004 Elections. Seventy percent (70%) also “believed that because of recurring allegations of election fraud, the credibility of the balloting process in Mindanao was at a record low.”

A copy of the article entitled “Pulse: Most Mindanaoans say Arroyo cheated in 2004 Polls”<sup>13</sup> is attached as **Annex G**.

37. This incident (which became known as the “*Hello Garci*” scandal) shows how respondent would exert extra-legal effort to ensure her hold on the presidency. At the height of the canvassing of the votes during the 2004 elections, she admitted to calling Garcillano, to “protect” her votes.

A copy of the article entitled “Hello, Garci Timeline”<sup>14</sup> is attached as **Annex H**.

38. Respondent publicly admitted and apologized over national television, and claimed that her call was a mere “lapse of judgment.” But no one believes that. Not after **several** calls were made to Garcillano. Calls that she should never have made. Calls that brought disrepute to the Office of the President. Calls that betrayed public trust.

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<sup>13</sup> <http://www.gmanews.tv/story/77997/> last viewed on September 27, 2008

<sup>14</sup> <http://www.gmanews.tv/story/59406> last viewed on September 27, 2008.

39. A perusal of the transcript of the conversation between respondent and Garcillano will reveal that they maliciously and intentionally conspired to commit electoral fraud.

A copy of the transcript of the conversation between respondent and Garcillano is attached as **Annex I**.

40. The culpability of respondent in that criminal offense was further shown when Garcillano suddenly disappeared at the height of the controversy. Authorities searched for him. Expectedly, they did not find him. Even respondent did not seem too anxious to locate him. And when he surfaced, he claimed he never left the country. Respondent and her cohorts apparently made it a habit to make a fool out of the Filipino people.<sup>15</sup>

41. Moreover, newly-discovered evidence show that respondent, through her agents, orchestrated the “switching,” sometime between January and February 2005 at the House of Representatives, of ballot boxes containing town-level tallies of votes in the 2004 elections from 38 provinces.

42. Through this series of clandestine operations, carried out by at least 20 members of the Philippine National Police Special Action Force (PNP-SAF) , some 6,000 "corrected" ERs were smuggled into the Lower

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<sup>15</sup> <http://www.pinoyexchange.com/forums/archive/index.php/t-237223.html> (last viewed on October 9, 2008)

House in three batches, replacing genuine ERs in the ballot boxes in the legislature's custody.

43. The “corrected” ERs were needed so that the votes would correspond to the figures in the province-wide certificates of canvass – the documents used in the congressional canvassing – which a group directed by former elections commissioner Virgilio Garcillano tampered with.<sup>16</sup>

44. In a democratic and republican country like ours, the right to suffrage is sacred. It is the mechanism through which the sovereign will of the people is expressed. The provision on suffrage is the one that gives life to the state principle that “sovereignty resides in the people and all government authority emanates from them.”

45. By manipulating the sanctity of the right of suffrage of the people and undermining the independence of the COMELEC, respondent clearly betrayed public trust.

*The rising dissatisfaction rating against respondent clearly reflects that the public believes that she had betrayed their trust.*

46. No indicator is more accurate in quantifying the degree of “betrayal of public trust” that the Filipino people have felt under

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<sup>16</sup>See Ellen Tordesillas, SAF Commandos 2004 poll coverup at <http://verafiles.org/index.php/focus/100-saf-commandos-confirm-2004-poll-fraud-coverup> <last visited Oct. 10, 2008>.

respondent's administration, than surveys on respondent's trust rating and net satisfaction ratings. Survey after survey reveals that the President is unpopular with very low trust and favorability rating.

47. In a Pulse Asia survey on October of 2007, it was disclosed that the distrust rating of President Arroyo rose to 46%, and her dissatisfaction rating to 39% amid bribery scandals. Pulse Asia stated:

“Amidst new calls for her resignation over the ZTE bribery scandal and the cash handouts to several government officials, President Arroyo registers an overall disapproval rating of 39 percent – the highest among the country's top five national officials.”

48. For its distrust rating, the Pulse Asia Survey revealed that people's distrust for President Arroyo is so prevalent, it cuts across geographic areas and socio-economic classes.

A copy of the article entitled “Pulse Asia: Arroyo Distrust Rating rises to 46% amid bribery scandals” is attached as **Annex J**.

49. In the first quarter of 2008 survey of the Social Weather Stations (SWS), another independent survey and polling company<sup>17</sup> the unfavorable rating of the President rose to negative (-26). According to the

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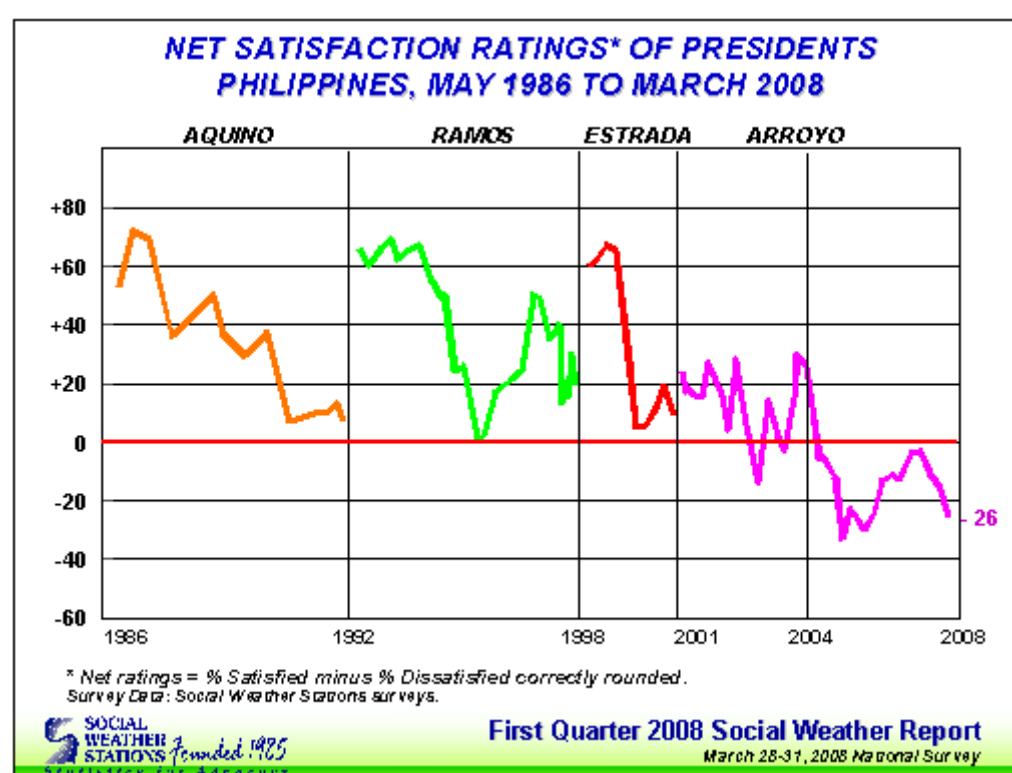
<sup>17</sup> Social Weather Station was established in 1985 as a private, non-stock, non-profit social research institution. Its members, called Fellows, are social scientists in economics, political science, sociology, statistics, market research and other fields.

SWS Survey taken from March 28 to 31, 2008, only 27% were satisfied and 54% were dissatisfied with President Gloria Macapagal Arroyo, for a Net Satisfaction Rating of -26%.<sup>18</sup>

50. Comparing the same ratings with those received by the last four Presidents of our country, it would appear that it was only during respondent's time that there was a negative satisfaction rating, or an overall negative feeling against a sitting President.

Thus:

*Chart1*




<sup>18</sup> Please refer to the Official Website of SWS at "<http://www.sws.org.ph/pr080414.htm>"

Table 1

NET SATISFACTION RATINGS* OF PRESIDENTS PHILIPPINES, MAY 1986 TO MARCH 2008							
AQUINO	Net*	RAMOS (cont)	Net*	ESTRADA	Net*	ARROYO (cont)	Net*
MAY86	+53	DEC93	+65	SEP98	+60	JUN03	+14
OCT86	+72	APR94	+67	NOV98	+61	SEP03	+ 2
MAR87	+69	AUG94	+55	MAR99	+67	NOV03	- 3
OCT87	+36	NOV94	+49	JUN99	+65	JAN04	+ 8
FEB88	+64	DEC94	+50	OCT99	+28	FEB04	+15
AUG88	+57	MAR95	+24	DEC99	+ 5	MAR04	+30
SEP88	+50	JUN95	+26	MAR00	+ 5	JUN04	+26
FEB89	+37	OCT95	+ 1	JUL00	+13	AUG04	+12
AUG89	+32	DEC95	+ 2	SEP00	+19	OCT04	- 6
SEP89	+29	APR96	+17	DEC00	+ 9	DEC04	- 5
MAR90	+24	JUN96	+19	ARROYO	Net*	MAR05	- 12
APR90	+37	SEP96	+21	MAR01	+24	MAY05	- 33
NOV90	+ 7	DEC96	+24	APR01	+17	AUG05	- 23
APR91	+24	APR97	+50	MAY01	+18	DEC05	- 30
JUL91	+10	JUN97	+49	JUL01	+16	MAR06	-25
NOV91	+10	SEP97	+35	SEP01	+15	JUN06	-13
FEB92	+13	DEC97	+40	NOV01	+27	SEP06	-11
APR92	+ 7	JAN98	+13	MAR02	+16	NOV06	-13
RAMOS	Net*	FEB98	+20	MAY02	+ 4	FEB07	- 4
SEP92	+66	MAR98	+15	AUG02	+28	JUN07	- 3
DEC92	+60	MAR-APR98	+30	SEP02	+18	SEP07	-11
APR93	+66	APR98	+19	NOV02	+ 6	DEC07	-16
JUL93	+69			MAR03	-14	MAR08	-26
SEP93	+62						

\* Net ratings = % Satisfied minus % Dissatisfied correctly rounded.  
Survey Data: Social Weather Stations surveys.

 **First Quarter 2008 Social Weather Report**  
March 28-31, 2008 National Survey

A copy of this survey is attached as **Annex K**.

51. These surveys indicate that the Filipino people are not satisfied with the performance of respondent as President. More than seven years have passed since she became President and respondent still failed to gain public trust. In fact, the controversies plaguing her administration continue to erode the people's trust in her.

52. It does not help that Mrs. Arroyo has been appointing to many sensitive posts in government people who are incompetent – a practice questioned by UP Prof. Karina David when she was head of the Civil

Service Commission.<sup>19</sup> Presidential Anti-Graft Commission (PAGC) Commissioner Teresita Baltazar has herself bewailed that corruption in government can be attributed to the appointment of unqualified persons to high government offices.

53. This steady decline of respondent's net satisfaction rating, based on studies separately conducted by two independent survey companies, and her attainment of *record lows* in net satisfaction ratings vis-à-vis other presidents, only serves to confirm that respondent has indeed betrayed the public trust. It is also easy to discern that the dips in her net satisfaction rating correspond to the scandals that have plagued her administration: in December of 2005, at the height of the "*Hello, Garci*" scandal, she achieved a net satisfaction rating of -30%. From September 2007 until March 2008, her net satisfaction rating steadily declined, in view of the continuing exposes in the course of the Senate inquiries on the NBN ZTE deal.

## ***II. Culpable Violation of the Constitution***

54. Culpable violation of the Constitution must be understood to mean willful and intentional violation of the Constitution and not violations

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<sup>19</sup> See Joceyln Uy, Resisting blackmail and bribery made Karina David tick, at <http://newsinfo.inquirer.net/breakingnews/nation/view/20080202-116427/Resisting-blackmail-and-bribery-made-Karina-David-tick> <last visited Oct. 10, 2008>.



committed unintentionally or involuntarily or in good faith or through honest mistake of judgment.<sup>20</sup>

55. Willful and intentional violation is the keyword. And willful and intentional is how respondent violated the Constitution – the same Constitution which she swore to defend and uphold.

*Respondent committed culpable violation of the Constitution by entering into the Northrail project without the requisite approval of the monetary board and without giving preference to Filipino labor and investment.*

56. On February 26, 2004, the Department of Finance acting under the explicit direction of respondent, through her then Secretary of Finance, Juanita D. Amatong, entered into a Buyer Credit Loan Agreement (No. BLA 04055) with the Export –Import Bank of China, which granted the Republic of the Philippines a loan facility in the amount of Four Hundred Million US Dollars (US\$ 400,000,000).

57. The purpose of the agreement was to finance the construction of the NorthRail Project – Phase I, Section I in the country. This multi-million contract between the North Luzon Railway Corporation (NLRC) and China's National Machinery and Equipment Group (CNMEG) was signed to rehabilitate the Caloocan to Malolos section of the Philippine National

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<sup>20</sup> *Ibid.*, p. 1112

Railways (PNR). A government-to-government deal financed the bulk of project cost, with a US\$400 million loan granted by the Export-Import Bank of China on the condition that a Chinese firm bags the construction deal.

58. Almost immediately, allegations of overpricing and questions on the feasibility of relocating 40,000 residents started to hound the project. According to reports, the North rail reconstruction costs US\$15 million per kilometer, more expensive than the ground-breaking 2,000-km Qinghai to Tibet system, which only cost US\$3.6 billion, or US\$1.8 million per kilometer. A substantial part of the initial downpayment allegedly went to kickbacks and payoffs. Since 2004, the Philippine government has reportedly paid out P1.4 billion for the project that has yet to commence, with interest payments amounting to a massive P1 million a day.

59. In an article by Jess Diaz appearing in the Barangay WordPress, lawyer Harry Roque was quoted with saying that China National Machinery and Equipment Group (CNMEG), a state-owned corporation, spent most of the \$150 million advanced by the government under its contract paying bribes.<sup>21</sup>

A copy of the article entitled “Huge Bribes delayed \$503-M Northrail Project says lawyer” is attached as **Annex L**.

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<sup>21</sup> <http://barangayrp.wordpress.com/2008/07/04/%e2%80%98huge-bribes%e2%80%99-delayed-503-m-northrail-project-says-lawyer/> last viewed on September 26, 2008.

60. It was said that the amount of \$125.75 million (P6.5 billion) has already been advanced out of the \$503-million funding, and yet the project, scheduled to be completed in May this year, appears to be heading nowhere. The loan was allegedly contracted without the approval of the Monetary Board as required by Section 20, Article VII of the 1987 Constitution<sup>22</sup>.

61. Moreover, the contract was entered into in violation of Sections 10 and 12 of Article XII of the Constitution<sup>23</sup> which gives preference to Filipino labor and investment.

62. Under the agreement, the China National Machinery and Equipment Corporation Group (CNMEG), a Chinese corporation, was designated as the prime contractor of the project. This designation was made without providing qualified Filipino contractors and corporations the opportunity to bid for the project.

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<sup>22</sup> Section 20, Article VII of the 1987 Constitution. The President may contract or guarantee foreign loans on behalf of the Republic of the Philippines with the prior concurrence of the Monetary Board, and subject to such limitations as may be provided by law. The Monetary Board shall, within thirty days from the end of every quarter of the calendar year, submit to the Congress a complete report of its decision on applications for loans to be contracted or guaranteed by the Government or government-owned and controlled corporations which would have the effect of increasing the foreign debt, and containing other matters as may be provided by law.

<sup>23</sup> Section 10. The Congress shall, upon recommendation of the economic and planning agency, when the national interest dictates, reserve to citizens of the Philippines or to corporations or associations at least sixty *per centum* of whose capital is owned by such citizens, or such higher percentage as Congress may prescribe, certain areas of investments. The Congress shall enact measures that will encourage the formation and operation of enterprises whose capital is wholly owned by Filipinos.

In the grant of rights, privileges, and concessions covering the national economy and patrimony, the State shall give preference to qualified Filipinos.

The State shall regulate and exercise authority over foreign investments within its national jurisdiction and in accordance with its national goals and priorities.

Section 12. The State shall promote the preferential use of Filipino labor, domestic materials and locally produced goods, and adopt measures that help make them competitive.

63. The contract did not even go through competitive public bidding, which not only prejudiced the rights of qualified Filipino contractors and corporations, but blatantly violated the provisions of the Procurement Reform Act. While admittedly, there are exceptions where competitive public bidding may be dispensed with, these exceptions do not apply in the selection of CNMEG as a contractor.<sup>24</sup>

A copy of the article “What’s Wrong with the North Rail Project?” is attached as **Annex M**.

*Respondent committed culpable violations of the Constitution by conspiring, directing, and directly tolerating with impunity, extra-judicial killings, forced disappearances, torture, massacre, illegal arrests, and other gross and systematic violations of the Constitution.*

64. Under the United States’ encouragement and direction, and using as pretext the US “war on terror”, respondent not only intensified her “counter-insurgency campaign” against the CPP-NDFP-NPA, but also flagrantly resorted to physically attacking the democratic movement since 2001.

65. Finding her regime’s legitimacy under question after the fraudulent elections in 2004, respondent further resorted to repressive measures and intensified and escalated the attacks on the open and legal democratic movement and the political opposition.

66. Leaders and members of militant peasant organizations, labor unions, and progressive sectoral organizations, human rights workers, judges

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<sup>24</sup> See article entitled “What’s wrong with the Northrail Project?” dated Thursday, 28 February 2008, appearing in <http://www.IPB2000.com/index.php/scams-beware>;

and lawyers, journalists, priests and church workers, have fallen victim to harassments, illegal arrests, abductions, torture, enforced disappearances, and summary executions with a frequency and brutality exceeding that of Martial Law.

67. Witnesses point to the police, military and paramilitary forces as the perpetrators of the killings, disappearances, torture, illegal arrests and detention and other violations.

68. Yet despite the more than seven years of systematic and relentless attacks on the human rights of the Filipino people whom she vowed to serve, respondent hardly uttered genuine concern for the victims and their families. Neither did she ever condemn the perpetrators of these heinous acts, much less took any decisive action to stop these atrocities and prosecute the perpetrators.

69. Instead, she publicly gave both tacit and overt approval and encouragement to the military campaigns of suppression, giving state security forces the license to kill, abduct, torture and massacre “enemies of the state” with impunity. Respondent even praised, promoted and coddled military commanders with track records of grievous human rights violations.

70. The rapid promotion and public acclamation during her State of the Nation Address in 2006 to the most vicious, ruthless and outspoken proponent of the killings, Maj. Gen. Jovito Palparan by Respondent was the clearest proof that indeed, the killings were results of a state policy embodied in the government’s newest counter-insurgency program, *Oplan Bantay Laya*.

71. *Oplan Bantay-Laya*, launched in 2002, differs from its failed predecessors mainly in targeting suspected civilian sympathizers and supporters of the CPP-NPA in town and urban centers.

72. The AFP, police and other government strategists searching for the elusive key to victory over the three-decade old people's war have come to the conclusion that they have been too soft on the legal democratic organizations. Official documents on internal security coming from the AFP and other state security agencies have stressed the need to conduct military operations not only against the guerrilla forces in the countryside but also against aboveground progressive legal organizations that they baselessly accused of supporting the armed revolutionary movement.

73. Thus, in 2004, the AFP, under the direction of respondent, its Commander-in-Chief, embarked on a "Target Research" program aimed at an intelligence build-up, complete with quotas and timetables, on progressive organizations and personalities tagged as "enemies of the state" and marked for "neutralization", a military euphemism for physical elimination. Relevantly, most of those assassinated, forcibly disappeared, tortured and massacred were priority subjects of the aforesaid "target research".

74. After the completion of their "target research", state security forces intensified attacks on the people, marked by the cold-blooded murder of unarmed political activists, church people, journalists, lawyers and judges, teachers and human rights defenders, attacks that have been committed with impunity. Essentially, these attacks on the people are motivated by Respondent's drive for political survival but which she cleverly hewed to the US government's "war on terror", which is nothing but a deadly euphemism to safeguard the economic interest of multinational, particularly American, corporations in the Philippines.

75. In response to the people's growing condemnation of these dastardly acts, a number of international entities had conducted fact-finding missions and had issued reports, recommendations and condemnations of the regime's lack of resolute action to stop the killings.

76. In response to this growing international pressure, respondent belatedly saw the need to take a pro-forma official action by creating the Melo Commission in September 2006 to look into the killings.

77. This step was clearly intended to deflect and diffuse the barrage of criticisms against her government. But before this Commission could start its investigation, respondent issued a blanket statement absolving her military and police forces of any wrongdoing, despite testimonies from survivors and witnesses to the contrary.

78. The involvement of the AFP in extrajudicial killings and enforced disappearance as a matter of policy was so overwhelming that the Melo Commission, which incidentally was organized by Malacañang itself, was not able to avoid referring to the involvement of Gen. Jovito Palparan and members of the AFP, termed as “rogue elements,” in the series of extra judicial killings and enforced disappearances. Rather than absolving the respondent from culpability, this in fact only bolsters the evidence of respondent’s involvement in the killings and disappearances.

79. Respondent’s responsibility is further highlighted by her refusal to take any action on the report and recommendations of the Melo Commission, including respondent’s continued refusal to file criminal charges against Gen. Palparan, even as the Melo Commission Report held Palparan responsible for the killings and disappearances.

80. Curiously, respondent adamantly refused to release the Melo Commission report to the public until it had to give in to both international and local pressure to do so.

81. Moreover, one of the most damning proofs of the responsibility of respondent in the systematic extrajudicial killings and enforced disappearances of activists and suspected dissenters to the Arroyo government is the Final Report of Prof. Philip Alston, the UN Special

Rapporteur on Extra-judicial, Summary or Arbitrary Killings, on his mission to the Philippines from February 12 to 21, 2007. In his Final Report, Prof. Alston, declared that:

*“Many in the Government have concluded that numerous civil society organizations are “fronts” for the Communist Party of the Philippines (CPP) and its armed group, the New People’s Army (NPA). One response has been counter-insurgency operations that result in the extrajudicial execution of leftist activists.*

*In some areas, the leaders of leftist organizations are systematically hunted down by interrogating and torturing those who may know their whereabouts, and they are often killed following a campaign of individual vilification designed to instill fear into the community. The priorities of the criminal justice system have also been distorted, and it has increasingly focused on prosecuting civil society leaders rather than their killers.”*

82. Prof. Alston struck at the very roots of the extrajudicial killings when he said that:

*Two policy initiatives are of special importance to understanding why the killings continue.*

*First, the military’s counterinsurgency strategy against the CPP/NPA/NDF increasingly focuses on dismantling civil society organizations that are purported to be “CPP front groups”...*

*Second, the criminal justice system has failed to arrest, convict, and imprison those responsible for extrajudicial executions. This is partly due to a distortion of priorities that has law enforcement officials focused on prosecuting civil society leaders rather than their killers.*

A copy of Prof. Alston’s Report is attached as **Annex N**.



83. Significantly, respondent consciously and willingly disregarded the findings of Mr. Alston and refused to implement the abovementioned recommendations. Furthermore, she continued to absolve the military of any liability for the crimes and publicly declared that “99.9% of the AFP is good”. Consequently, attacks against leaders, members and supporters of militant people’s organizations continue.

84. Thus, since the assumption of respondent to the presidency in January 21, 2001, she has authorized, allowed, abetted and countenanced the assassination and summary executions of 601 political dissenters and 42 media practitioners, the involuntary disappearance of some 176 persons, the torture of 245 persons in the hands of government authorities, and the illegal arrest of 1,563 persons. Among the victims of human rights violations are Jonas Burgos<sup>25</sup>, Sherlyn Cadapan, Manuel Merino, Karen Empeneo<sup>26</sup>, Raymond Manalo and Reynaldo Manalo.<sup>27</sup>

85. Quoted hereunder are the human rights violations sanctioned by respondent:

#### **85.1. The Enforced Disappearance of Jonas Joseph Burgos**

On the night of April 28, 2007, Jonas, 28 years old and married, did not come home. The Burgos family became anxious. They sent him a text message the whole night asking on his whereabouts. At 10:46 a.m. the following day, they received a reply saying “*sensya na ligo lang.*”

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<sup>25</sup> <http://www.gmanews.tv/story/49961/Jonas-Joseph-T--Burgos> (last viewed October 10, 2008)

<sup>26</sup> <http://stopthekillings.org/stknpy1/?q=node/107> (last viewed October 10, 2008)

<sup>27</sup> [http://www.newsbreak.com.ph/index.php?option=com\\_content&task=view&id=4042&Itemid=88889051](http://www.newsbreak.com.ph/index.php?option=com_content&task=view&id=4042&Itemid=88889051) (last viewed October 10, 2008)

The exchange of text messages continued, with Jonas family trying to find out about his condition, but the reply from Jonas' phone did not make any sense. His family then called him up. They were able to talk to him but his voice sounded like he was drugged and his answer was unclear. They continued to check on him through text messages and by ringing his mobile phone from time to time. His mobile phone was turned on the whole day of April 29 but he could no longer be reached by 6 p.m. until the morning of April 30.

At 1 p.m. on April 30, 2007, the Burgos family called a press conference. Witnesses surfaced after news of Jonas' abduction was aired in the evening news.

Witnesses confirmed that at about 1:30 p.m. of April 28, 2007, Jonas was violently seized by four (4) to six (6) strongly built men and a boyish looking woman while he was alone eating lunch in Hapag Kainan Restaurant at Ever Gotesco Mall, Commonwealth Ave., Quezon City. The burly men mobbed Jonas. Witnesses say they heard Jonas crying out loud "*Ano 'yan, sir? Baril at posas 'yan ah!*" Jonas tried to seek help from an employee of the restaurant, saying "*Ma'am, aktibista lang po ako.*" But the men introduced themselves as police officers, thereby putting off any possible help for Jonas.

Jonas was handcuffed and forcibly dragged out of the restaurant. He tried to catch the attention of the people around and was heard shouting "*Aktibista lang ako! Wala akong kasalanan!*" But no one did come to his aid because the men mobbing him announced they were police officers.

Jonas was forced into a maroon Toyota Revo bearing a license plate TAB-194. The plate was later traced to a certain Mauro Mudlong, its registered owner. It was also found out, however, that the plate was attached to a 1991 model of Isuzu utility van and not to a Toyota Revo; that the registered vehicle was impounded on June 24, 2006 with the 56<sup>th</sup> Infantry Battalion after the vehicle had been intercepted by Private First Class Jose Villena Corporal Castro Bugallon of the 56<sup>th</sup> IBPA (based in San Mateo, Norzagaray, Bulacan) for transporting illegal logs; that the military turned it over to the DENR, but for lack of space for impoundment, the latter returned the vehicle to the custody of the 56<sup>th</sup> IBPA sans the illegally cut timber; and that the impounded vehicle had been in the 56<sup>th</sup> IBPA compound since 2006.

Jonas' family and friends believe the military are behind his forced disappearance because of his political activities. An agriculture graduate, Jonas since 1998 had been actively giving agricultural training to members of Alyansa ng Magbubukid sa Bulakan (AMB), a provincial chapter of the militant Kilusang Magbubukid ng Pilipinas, several leaders and members of which were victims of extrajudicial killing perpetrated by the military.

Police investigators reported they took the statements of five army officers, namely: Lt.Col. Melquiades L. Feliciano, commanding officer of the 56<sup>th</sup> IBPA; Lt. Col. Noel S. Clemente, commanding officer of the Security and Escort Battalion based in Fort Bonifacio; Lt. Col. Edison Caga, commanding officer of 69<sup>th</sup> IBPA stationed in Pampanga; Cpl. Castro Bugallo and Pfc. Jose Villena of the 56<sup>th</sup> IBPA. Said military officers denied any involvement or participation in the abduction. The

police also made cartographic sketches of the abductors as described by witnesses.

On May 8, 2007, Jonas' mother, Edita, searched for her son at ISAFP but its chief, Brig. Gen. Delfin Banguit denied they had custody of Jonas. After media reports later came out stating that AFP Chief of Staff Gen. Hermogenes Esperon, Jr. had ordered the Army Provost Marshal and the Inspector General to conduct an investigation into the involvement of the five above-named army officers in the abduction of Jonas, Edita, through her lawyer, wrote on May 21, 2007, to Gen. Esperon requesting for a copy of the report of the Provost Marshal and the Inspector General.

On May 29, 2007, Edita had an audience with Executive Secretary Eduardo Ermita to seek his help in the search for Jonas. Sec. Ermita responded by arranging a meeting between Edita and Gen. Esperon on June 6, 2007 at 10 a.m.

On June 2, 2007, Edita received a call from President Gloria Macapagal-Arroyo who reminded her to go see Esperon and saying it would help hasten the investigation.

On June 6, 2007, at 10 a.m., Edita's lawyers and her brother Jimmy Tronqued went to see Gen. Esperon. (Edita could not make it to the meeting as she was suffering from vertigo attack.) Instead of meeting with Esperon, however, the two were met by certain Lt. Cols. Lucero and Castro.

On June 21, 2007, Edita received a letter from the Judge Advocate General, Brig. Gen. Nemesio I. Dabal, stating that they could not release a copy of the report of the Provost Marshal and the Inspector General because it was purportedly a "classified matter."

On June 15, 2007, Edita attended the public hearing on the abduction case called by the Commission on Human Rights which announced it would issue a report on the case in two week's time.

Thereafter, Edita requested from the CHR for a copy of its report as well as the documents submitted therein which include the report of the Provost Marshal and the Inspector General and the progress report by the PNP.

However, two weeks had passed after the last CHR hearing and it has not issued its report. Neither has it provided Edita with the other documents she requested.

When Edita next requested from Director Geary Barias of the PNP's Task Force Usig for a copy of its progress report on the case, she was denied thereof and was told to get a copy instead from the CHR. Since then, Edita has not heard from the police regarding their own investigation into the forced disappearance of Jonas.

Having searched in vain for Jonas, Edita filed a petition for habeas corpus with the Supreme Court on July 13, 2007. After a hearing on the case, the military was compelled to produce in court the report of the Provost Marshal and the Inspector General which Edita had been longing to see in the hope that it would shed light on the whereabouts of her son

and possibly hint on the identities of his captors. The report produced in court by the military, however, was incomplete. Jonas remains missing to this date.

#### **85.2. The Enforced Disappearances of Sherlyn T. Cadapan and Karen E. Empeño**

Sherlyn T. Cadapan (“Sherlyn”) and Karen E. Empeño (“Karen”) are both students from the University of the Philippines who were doing research in Barangay San Miguel, Hagonoy, Bulacan when they were abducted.

On 26 June 2006, at around 2:00 a.m., Sherlyn and Karen who were then staying in the house of one Raquel Halili at Barangay San Miguel, Hagonoy, Bulacan, were forcibly taken with their hands tied by elements of the Philippine Army based in the Headquarters of the 56<sup>th</sup> Infantry Battalion, Iba, Hagonoy, Bulacan, under the command of Maj. Gen. Romeo Tolentino, then Brig. Gen. Jovito Palparan and Col. Rogelio Boac.

The soldiers also took Manuel Merino, a farmer who was then staying in the adjacent house (owned by William Ramos) and who went out to help the two UP students. Manuel Merino was also tied down, brutalized and seized.

William Ramos and his son, Wilfredo Ramos, saw the victims being led to a private stainless jeep with plate number RTF 597. Father and son were made to lie face down with their hands tied. The stainless jeep fled towards Iba, Hagonoy, Bulacan.

When this abduction incident came out in the news, the human rights group KARAPATAN-Bulacan Chapter immediately launched a quick response team composed of Alyansa ng Mamamayan para sa Pantaong Karapatan or ALMMA (Citizen’s Alliance for Human Rights) members and volunteer staff of Barangay Human Rights Action Center headed by Mildred Benitez.

The group went to the 56<sup>th</sup> Infantry Battalion Headquarters and there they saw the stainless jeep with plate number RTF 597. The military camp which used to be open for visitors was closed and they were not allowed inside. Mildred, however, heard a barbecue stand vendor ask who they were looking for. “*Yung mga babae ba?*” [“Are you looking for the women?”], he asked, but when the reply was “yes,” the vendor did not say a word again.

On 28 June 2006, at around 10:00 in the evening, Alberto Ramirez was awakened by shouts from Manuel Merino, the same person who was abducted earlier on together with Sherlyn and Karen. When Alberto looked out he saw that Manuel had two male companions who immediately pointed their guns at Alberto. The men forced Alberto out of his house. Outside, he saw more armed men who were waiting for them in a vehicle with plate number RTF 597. The incident was also witnessed by people in the neighborhood who were all threatened by the armed men not to say a word about what they saw.

Alberto was brought to Brgy. San Miguel, Hagonoy, Bulacan and thereafter in the military’s detachment at Brgy. Mercado located at the

second floor of the barangay hall. At the detachment, one of the men who took part in the abduction introduced himself to Alberto as Arnel Enriquez. Arnel showed Alberto two leaves of bond paper with names written thereon. Arnel asked Alberto about those names. Arnel also mentioned the names Sherlyn Cadapan who according to him is also known as “Ka Tanya” and “Ka Lisa” and Karen Empeno as “Ka Sierra.”

Alberto was asked by Arnel to cooperate with them and to help them identify or point to the persons whose names were listed in the bond papers or suffer the consequences. He was allowed to leave but was warned to report back to the detachment at 2:00 p.m. the following day. But instead of going back to the detachment, Alberto left the place and reported the matter to the human rights group KARAPATAN.

A Petition for Habeas Corpus was filed on behalf of Sherlyn Cadapan, Karen Empeño and Manuel Merino, and a writ of habeas corpus was issued against Maj. Gen. Tolentino, Gen. Palparan, et al. But in their Return of the Writ, they all denied having custody of the victims and even denied having knowledge about their abduction.

The CA consequently dismissed the petition for habeas corpus filed by the family of the missing UP students on the ground that it was not the proper remedy in the case.

Unfazed, the parents of Sherylyn and Karen filed a Petition for the Writ of Amparo which was then a new remedy promulgated by the Supreme Court October 24, 2007 for the protection of life, liberty, and security in the midst of the escalating cases of extrajudicial killings and enforced disappearances.

On September 19, 2008, in an apparent reversal of its ruling on the Petition for the Writ of Habeas Corpus, **the Court of Appeals ordered the military to release the two students and a farmer it allegedly abducted in Bulacan two years ago. The Court ruled that there is sufficient evidence that the Armed Forces of the Philippines (AFP) is still holding Sherlyn and Karen and farmer Manuel Merino in custody.**

The CA said that the additional testimony of Raymond Manalo have been able to convincingly prove the fact that the three victims are being detained by the military. The appellate court also directed the Philippine National Police to finish its investigation into the disappearance of the three and to file appropriate charges against those responsible.

### **85.3. The Abduction and Torture of Raymond and Reynaldo Manalo**

On February 14, 2006, at around 2p.m., armed men in civilian clothes barged into the house of Jesus and Ester Manalo in Brgy. Bohol na Mangga, San Ildefonso, Bulacan, looking for their son “Bestre” (short for Roberto) who was a former NPA member. At that time, their 22-year old son Raymond was taking a nap. The armed men then beat up Raymond. He and his mother pleaded with the armed men, saying he was not Bestre. But the armed men proceeded to tie Raymond’s hands and dragged him into a white van. According to a witness, the van was driven

by M/sgt. Rollie Castillo, commander of the 24<sup>th</sup> infantry Battalion, PA stationed in Brgy. Pinaod, San Ildefonso Bulacan, which military unit belongs to the 7<sup>th</sup> Infantry Division then under the command of then Maj. Gen. Jovito Palparan, Jr.

Thereafter, the armed men proceeded to the house of Reynaldo, brother of Raymond, in the same village. At that time, Reynaldo and his wife were busy hauling charcoal which was the source of their income. One of the armed men ordered Reynaldo to kneel down while the other armed men stormed his house, illegally searched it and seized Reynaldo.

The Manalo family reported the abductions of Raymond and Reynaldo (both farmers) to San Ildefonso Police Chief Emma Libunao who took them to the 24<sup>th</sup> IBPA detachment where they met M/Sgt. Castillo. The latter assured them nothing untoward would happen to Raymond and Reynaldo.

On May 12, 2006, the relatives of the abducted brothers filed a petition of habeas corpus at the Court of Appeals against then Lt. Gen. Hermogenes Esperon, Jr. then in command of the Philippine Army; then Maj. Gen. Jovito Palparan, Jr., then 7<sup>th</sup> IDPA Commander; M/Sgt Rizal Hilario alias Rollie Castillo; and members of CAGU namely, Michael dela Cruz, Mading dela Cruz, “Puti” dela Cruz, “Pula” dela Cruz, Randy Mendoza and Rudy Mendoza. These respondents denied being involved or having participated in the abduction of the Manalo brothers.

On July 25, 2006, the Manalo Family filed a complaint against the Department of National Defense (DND) and certain military officials with the CHR.

On August 13, 2007 between 1:00-2:00 a.m., the brothers escaped from illegal detention. Raymond narrated that after they were seized on February 14, 2006 by a group of armed men led by M/Sgt Rolly Castillo, they were taken to Fort Magsaysay in Nueva Ecija where the 7<sup>th</sup> IDPA is based. They were tied and blindfolded, severely beaten up, burned up with “dapog” in their arms, thighs, back, lips and just below the eyes and other forms of torture. He told of his first attempt to escape after one week in captivity and of his recapture. He also said that during 18 months in captivity, he saw other victims of enforced disappearance being similarly held incommunicado and subjected to various forms of physical and psychological torture.

On August 23, 2007, the brothers filed with the Supreme Court a petition for Prohibition, Injunction, Temporary Restraining Order, among other reliefs, seeking to restrain the Secretary of National Defense, the AFP, its Chief of Staff, officers, agents and other persons under their authority, supervision, control and/or direction, from arresting or abducting the brothers. They also sought among other reliefs for a protective custody order in favor the brothers.

On August 24, 2007 the Supreme Court issued a temporary restraining order restraining AFP officers and agents and other persons under their authority, supervision, control and/or direction, from arresting or abducting the brothers.

On October 7, 2008 the Supreme Court promulgated its unanimous decision on the amparo petition of the Manalo brothers, **affirming as a**

**fact the involvement of government security forces, including Gen. Jovito Palparan, in the enforced disappearance of the brothers. The Supreme Court declared:**

*...the abduction was perpetrated by armed men who were sufficiently identified by the petitioners (herein respondents) to be military personnel and CAFGU auxiliaries.*

*We are convinced, too, that the reason for the abduction was the suspicion that the petitioners were either members or sympathizers of the NPA, considering that the abductors were looking for Ka Bestre, who turned out to be Rolando, the brother of petitioners.*

Gen. Palparan's participation in the abduction was also established. At the very least, he was aware of the petitioners' captivity at the hands of men in uniform assigned to his command. In fact, he or any other officer tendered no controversion to the firm claim of Raymond that he (Gen. Palparan) met them in person in a safehouse in Bulacan and told them what he wanted them and their parents to do or not to be doing. Gen. Palparan's direct and personal role in the abduction might not have been shown but his knowledge of the dire situation of the petitioners during their long captivity at the hands of military personnel under his command bespoke of his indubitable command policy that unavoidably encouraged and not merely tolerated the abduction of civilians without due process of law and without probable cause. ***{Secretary of National Defense vs. Raymond and Reynaldo Manalo, GR No. 180906, Oct. 1, 2008}***

#### **The enforced disappearance by Mr. Leo Velasco**

Mr. Leo Velasco, a consultant for the National Democratic Front (NDF), was abducted in broad daylight and until now remains missing.

On 19 February 2007 at about 10:00 in the morning, Mr. Leo Velasco was walking in the vicinity of the Philippine First Insurance and SRBC buildings located near the Aguinaldo and Yacapin Streets at Cagayan de Oro City when, without warning, a fast-moving gray L300 van with plate number LCV 513 stopped abruptly in front of him.

Several men in plain clothes alighted from the vehicle and forced him to enter the van. Mr. Leo Velasco struggled to prevent the men from taking him and so a scuffle ensued. His eyeglasses fell off from him during the struggle. Security guards from the nearby buildings later retrieved the glasses after his abduction.

Mr. Leo Velasco eventually fell down onto the pavement due to his exertions as more men, numbering more or less eight (8) in all, came to overpower him. One of the perpetrators of the abduction was wearing a black, long-sleeved sweat shirt with the letters CIDG on the back.

Many people had mutely watched the incident and the man wearing the black sweat shirt told them they were with the government. Mr. Leo Velasco was roughly thrown unceremoniously into the van and this vehicle quickly left with a black Toyota Revo, with a license plate ending with 692, following it closely behind.

Moments after the two vehicles left, a city patrol car came and the police officer said "*Amin yun,*" referring to the operation that had just

transpired. Apparently, the local police knew about the planned abduction of Mr. Leo Velasco.

Mr. Cesar Duetes, a security guard from the nearby buildings where the abduction of Mr. Leo Velasco took place promptly reported the incident with the local police. Intelligence Operatives of the Police Station 2, Cogon, Cagayan de Oro City, namely, PO2 Nolasco Gaabucayan and PO2 Francis Michael Fortunado, conducted the investigation of the incident.

Nothing more was uncovered from the police investigation of the abduction of Mr. Leo Velasco. A few weeks later, Mr. Cesar Duetes who had the incident blotted reportedly resigned from work as a security guard and was never heard of again, as unknown men often visited him at work.

The daughter of Mr. Leo Velasco, Ms. Lorena Santos, on 23 to 27 February 2007, on 18 to 20 July 2007, and again on October 2007, went to Cagayan de Oro City to investigate the details of her father's abduction. She initially visited the Riverview Hotel where Mr. Leo Velasco checked in before his enforced disappearance.

Ms. Santos then visited the place of the incident and was able to speak with a witness who saw the abduction of her father. The other witness, the security guard, Mr. Cesar Duetes, had already disappeared and was no longer available for comment.

Ms. Santos then went to the police station where the abduction was recorded in a blotter. The station commander there said he was in a 4-month workshop at the time of the incident but promised that he would personally look into the case but that she should just follow it up some other time.

Ms. Santos then went to the Iglesia Filipina Independiente (IFI) Cathedral to write a statement for the media. She later went the Land Transportation Office (LTO) and inquired as to the plate number LCV 513, the one that the gray L300 van carried at the time of the abduction.

It turns out that the plate number did not match the vehicle it was attached to and was presumably fake. The license plate is registered under the name of a certain Mr. Gregorio Y. Haw of Sto. Niño St., Lanang Executive Homes, Davao City but not as an L300 van but a Toyota Tamaraw FX Wagon.

While in Cagayan de Oro City, Ms. Lorena Santos learned that the security guards who had witnessed the abduction of her father had gotten hold of his glasses and that they gave it to a reporter, Mr. Nilo Abroguena. The CIDG Director for Northern Mindanao, P/SSupt. Julian Pantonial, later took Mr. Leo Velasco's glasses from Mr. Nilo Abroguena.

Ms. Santos strongly suspects that the combined military and police elements who had their eyes on Mr. Leo Velasco are the ones responsible for abducting him. Lt. Col. Jack Baltazar of the Intelligence Service of the Armed Forces of the Philippines (ISAFP) admitted to Ms. Lorena Santos that the military had long wanted to get Mr. Leo Velasco for his alleged underground activities though he bluntly denied he was in their possession.



Mr. Leo Velasco's family, to this day, has no idea where he is held and greatly concerned for his safety. They call on the government and its agents to release Mr. Leo Velasco and put a stop to its continuing practice of enforced disappearances.

#### **85.5. Enforced disappearance of Rogelio and Gabriel Calubad**

On 17 June 2006, at about 7:00 a.m., Rogelio Calubad, 53 years old, and his son, Gabriel, 29 years old, left their house in Barangay Apad-Lutao, Calauag, Quezon for Barangay Bangkuruhan of the same town, to fence off a parcel of land recently purchased by Rogelio's sister. They left on a motorcycle driven by Gabriel.

About twenty (20) meters from their destination, Rogelio and Gabriel's vehicle was suddenly overtaken by a dark blue van bearing no license plate and a motorcycle, causing Rogelio and Gabriel to fall off their motorcycle. Immediately, several armed men alighted from the van and forced Rogelio and Gabriel to lie face down on the ground. They handcuffed and jostled Rogelio into the van, while they forcibly took Gabriel onto their motorcycle. After snatching Rogelio and Gabriel, the convoy sped away and abandoned the motorcycle belonging to Rogelio and Gabriel.

Worried about her husband and son's failure to return home that day, Rogelio's wife, Elizabeth, searched for them in vain the following day in Barangay Bangkuruhan.

Having been told by a villager in Barangay Bangkuruhan who witnessed the abduction, Elizabeth, accompanied by the chairpersons of barangays Bangkuruhan, Apad-Lutao and Madlandungan, next went to the Calauag Police Station to report the incident. There, Elizabeth was informed that the victims' motorcycle had been earlier turned over to the station by a barangay peace officer. Elizabeth also learned from police investigator Nestor Afuen that the police already knew about the incident as early as 10:00 a.m. of 17 June 2006.

Having obtained no information from the police about the whereabouts of her husband and son, Elizabeth, together with the three barangay chairpersons, proceeded to the 76<sup>th</sup> Infantry Battalion stationed at Brgy. Biñas. The commanding officer, a certain Ben Tibano, denied having custody of Rogelio and Gabriel. Elizabeth and her group also searched for the victims at the headquarters of 417<sup>th</sup> Provincial Police Mobile Group at Camp Villarasa in Brgy. Sta. Maria, but the public information desk officer there denied having custody of the missing Calubads.

Prior to the abduction of Rogelio and Gabriel Calubad, on 10 August 2005, Rogelio's brother, Cesar Calubad, was unlawfully arrested without a warrant by the Police Mobile Group of Camarines Sur. Cesar had later confided to Elizabeth that he was subjected to a tactical interrogation in which he was asked mainly about the personal circumstances and whereabouts of his brother, Rogelio. Cesar's captors tortured him in an attempt to force him to turn in his brother.

Elizabeth also recalls that on September 2005, an alleged representative of the Department of Local and Interior Government conducted a purported census on Elizabeth's house and underhandedly asked personal information about Rogelio Calubad.

Elizabeth strongly suspects that the military belonging to the 2<sup>nd</sup> Infantry Division of the Philippine Army based in Camp Nakar, Barangay Gulang-gulang, Lucena City, Quezon, by order and at the behest of SOLCOM Chief Lt. Gen. Alexander Yano, ISAFP Chief Commodore Leonardo Calderon, Jr. and AFP Chief of Staff Gen. Hermogenes Esperon, Jr., and their agents were behind the abduction of her husband and son, especially because Rogelio Calubad is a consultant to the NDFP Negotiating Panel. As such, Rogelio is a duly accredited and protected person under the Joint Agreement on Safety and Immunity Guarantees (JASIG) between the Government of the Republic of the Philippines (GRP) and the NDFP. Moreover, he and his son had not committed any offense for which they may be arrested or deprived of their liberty without any formal charge or judicial warrant.

To this day, the case of petition for habeas corpus now pending before the Regional Trial Court of Manila has not been resolved and Rogelio and Gabriel remain missing.

#### **85.6. Enforced Disappearance of Patricio Abalos**

In the evening of March 28, 2005, Patricio Abalos, 67 years old, the provincial chairman of the farmers' cooperative in Brgy. Guindapunan, Catbalogan, Samar, was at home with his family and other relatives. They were watching television when suddenly Patricio's daughter, Cristina, noticed a Toyota Revo van parking in front of their house and saw some men around the vehicle. She told her father about it. When he went out to check, the car was gone.

When the van came back, four (4) armed military elements belonging to the 8<sup>th</sup> Infantry Division under Maj. Gen. Jovito Palparan forcibly took Patricio Abalos at gunpoint. Thereupon the van sped away. A motorcycle bearing no car plate like the van was on tail. In the evening of the same day, Patricio's family reported to the police the fact of the abduction.

The next day, Cristina and her mother searched for Patricio at Camp Lucban in Maulong, Catbalogan where the 8<sup>th</sup> Infantry Division of the Philippine Army is based. But they were denied entry into the camp. They then tried to seek the help of the Public Attorneys' Office. But said office, explaining that it was also being harassed, turned them down. Not giving up, on March 30, 2005, they went back to the military camp, but once again they were shooed away.

On March 31, 2005, six soldiers barged into and searched Patricio's house against the will of the members of the family and without a search warrant. The group was headed by one who introduced himself as Lt. Wilbert Basquiñas who arrogantly admitted having custody of Patricio. He told Patricio's family that he and his men were looking for a gun allegedly kept in Patricio's wooden trunk. Cristina and her family pleaded with the soldiers. Lt. Basquiñas ignored them and proceeded to ransack the house, threatening and aiming his pistol at the family while brandishing his fan knife.

While the soldiers could not find any gun, they still took with them Patricio's trunk which contained his IDs, wallet and medicines. They also threatened to take Patricio's wife should she not surrender the gun they were insisting was inside the trunk. Cristina's family later reported the incident to the police. But the latter refused to help them, saying they would not want to antagonize the military.

On April 2, 2005, Cristina went back to the police station and reiterated the fact that her father remains missing.

On April 7, 2005, Cristina and her mother went to seek the help of Congressman Figueroa. They chanced upon Gen. Palparan at the congressman's house. Cristina noticed that the general's vehicle parked outside the house was the same vehicle used by the military in the abduction of her father.

Cristina and her mother confronted Gen. Palparan. But Gen. Palparan ridiculed Patricio and tried to bully the family into admitting that Patricio was an NPA. Palparan threatened the family, saying: *"I hope that when your father and I talk again, he won't be as hard headed as he is. I'm bad when I get angry and I'm getting angry now."* Cristina asked Palparan why her father was being illegally detained and why they were not allowed to visit him. At this, Palparan replied that he had given the go-signal to visit Patricio. Cristina and her mother also insisted for the release of Patricio, but Palparan rejected it, saying Patricio was old anyway.

After Palparan left, Cong. Figueroa told Cristina and her mother that Palparan had admitted Patricio was in the military's custody.

Cristina filed a petition for habeas corpus against the military unit illegally detaining Patricio before the Court of Appeals in Cebu City. However, the court dismissed the petition on the ground that there was no sufficient proof of detention. The order of dismissal of the petition was issued despite the fact that Cristina and other witnesses were presented to prove that armed military elements belonging to the 8<sup>th</sup> Infantry Division and upon the order of Gen. Jovito Palparan forcibly abducted Patricio Abalos from his house on March 28, 2005.

Cristina has also filed cases of arbitrary detention, robbery, violation of domicile, among others, against then Brig. Gen. Palparan and Lt. Basquiñas. But the Office of the Provincial Prosecutor in Samar absolved Palparan from the charges.

#### **85.7. Enforced disappearance of Perseus Geagoni**

Perseus Geagoni is an active organizer and the Education Officer of the Negros Federation of Sugar Workers (NFSW) in Bacolod City, a duly-registered organization of sugar plantation workers.

Geagoni was on his way home on a borrowed red-black KMX Kawasaki sports motorcycle with motor plate "for registration" from the office of Negros Federation of Sugar Workers (NFSW) in Bacolod City in the evening of 05 December 2005 when he was abducted by unidentified men.

A witness named Thadea B. Vivero said that about 6:30 P.M. of 05 December 2005, she saw a red and black colored Kawasaki sports motorcycle overtaking the jeep she was riding. Ahead of it were a Honda motorcycle and a gray, tinted Tamaraw FX van swerving and deliberately blocking the Kawasaki sports motorcycle.

According to Perseus' wife, Nieva, sometime on the third week of December 2005, a soldier confirmed that a group of thirty (30) operatives led by 1<sup>st</sup> Lt. Clarence Garrido of the 11<sup>th</sup> Infantry Battalion and under the supervision of the Visayas Military Intelligence Command under the command of Major Ariel Quiachon of the Philippine Army were responsible for the abduction of Perseus Geagoni.

Prior to the incident, Geagoni had reported several instances of being tailed. One particular incident was in November 2005 when he was chased by a motorcycle-riding man in Garita, Brgy. Zone 14-A, Talisay City. He avoided the man by speeding up towards Colegio de San Agustin, Bacolod. Also, on several occasions, two unidentified men had asked for his whereabouts.

The fact of his abduction has been reported to the police. To date, the victim remains missing.

**85.8. Enforced disappearance of Riel R. Custodio, Michael Masayes, Axel Alejandro Pinpin, Aristedes Sarmiento and Enrico Y. Ybanez**

Now collectively known as Tagaytay Five, Riel R. Custodio of Batangas City; Michael M. Masayes of Tagaytay City; Axel Alejandro A. Pinpin of Indang, Cavite; Aristedes Q. Sarmiento of Calamba City and Enrico Y. Ybanez of Tagaytay City are peasant leaders, organizers and advocates associated with Katipunan ng mga Magsasaka ng Kabite (KAMAGSASAKA-KA) a provincial peasant organization of the KMP.

At around 6:30 sundown of April 28, 2006, while traveling along Ligaya Drive, Sangay, Tagaytay City, the members of Tagaytay Five were forcibly and illegally abducted by an estimated 30 to 40 heavily armed elements of the Philippine National Police and the AFP-Philippine Navy Intelligence and Security Force (NISF). Their abductors wore various uniforms and plain clothes, all bearing no name plates, and carrying no warrants of arrest or search warrants.

For three (3) agonizing days, which seemed eternity for them and their relatives, they were kept blindfolded and hog-tied, involuntarily interrogated without the aid of counsel, physically harmed and repeatedly threatened with electrocution and summary execution. They were held incommunicado in various military and police camps and safe houses and deliberately hidden from their relatives. They were divested of all valuables, personal belongings, and organizational properties. The unmistakable marks of torture are now borne by at least two (2) of them. Sarmiento's 2<sup>nd</sup> degree burn wound on his right leg remains unhealed three (3) months after their abduction.

Unable to get even a shred of evidence, the above-mentioned PNP unit planted belatedly evidence on the Tagaytay Five and declared in a press conference presided over by the then Chief of the PNP, Director General Arturo Lomibao in Camp Crame, Quezon City on May 1, 2006 that they belonged to a group of NPA sent to destabilize the Arroyo

government during the Labor Day celebration. Brute force and psychological torture were inflicted but failed to force the Tagaytay Five to admit the false allegation of membership in the NPA.

A case of rebellion was filed against the Tagaytay Five before the Regional Trial Court of Tagaytay City. On the other hand, despite complaints and evidence of torture found on the Tagaytay Five, the arresting officers were not even investigated by the PNP and the Navy. On August 20, 2008, Judge Edwin G. Larida Jr. of the Tagaytay City RTC Branch 18 ordered the five detainees freed, after finding that their arrest and detention have been done illegally.

#### **85.9. Enforced disappearance of Rev. Berlin Guerrero**

Rev. Berlin Guerrero, an activist pastor of the UCCP and the former General Secretary of Bagong Alyansang Makabayan [BAYAN-Southern Tagalog], was abducted by armed men in a Ford Fiera at 5:30 p.m. on 27 May 2007 in Binan, Laguna while on board a tricycle with his wife and 3 children in front of many witnesses.

BAYAN, a militant people's organization, was publicly called a CPP-NDF-NPA front and an "enemy of the state" by Respondent Commander in Chief through the Armed Forces of the Philippines in the power point presentation titled "*Enemies of the State*" and through the book published by respondent's through her subordinates in the AFP titled "*Trinity of War*". Bayan was also labeled by respondent through her National Security Adviser and her subordinates in ISAFP, a CPP front that needs to be "neutralized" in "OPLAN BANTAY LAYA" a document containing the policy of Respondent Arroyo on insurgency.

While on board the Ford Fiera on the way to a safehouse, Rev. Guerrero was heavily tortured, at times, beaten by his abductors who later turned out to be members of the Naval Intelligence Group with a large heavy bottle of mineral water. He passed out twice from suffocation when in the course of the interrogation one of his military captors placed a plastic bag on his head.

He was interrogated and tortured on his supposed connection with the NPA and asked for information on the leaders of BAYAN and other militant organizations in Southern Tagalog. During the period that he was missing, human rights lawyers and the Uniting Church of Christ of the Philippines [UCCP] pressured the top officers of the PNP and AFP in Cavite to produce Rev. Guerrero.

His abductors from the Naval Intelligence Group were forced to turn him over to the PNP provincial headquarters in Camp Pantaleon Garcia, Cavite, at about 11:00 a.m. the next day. He was later charged with inciting to sedition by the Department of Justice.

Pastor Berlin was later ordered released by the Court of Appeals which declared that due process rights of Pastor Berlin were violated, quoted the Supreme Court in *Beltran vs People*, declaring thus:

" The obvious involvement of political considerations in the actuation of respondent Secretary of Justice and respondent prosecutors bring to mind an observation we made in another equally politically charged case. We reiterated what we stated then, if only to emphasize the importance of

maintaining the integrity of criminal prosecutions in general and preliminary investigations in particular, thus:

We cannot emphasize too strongly that **prosecutors should not allow, and should avoid, giving the impression that their noble offices is being prostituted, wittingly or unwittingly, for political ends**, or other purposes alien to, or subversive of, the basic and fundamental objective of observing the interest of justice evenhandedly, without fear of favor to any and all litigants alike, whether rich or poor, weak or strong, powerless or mighty. Only by strict adherence to the established procedure may be public's perception of the impartiality of the prosecutor be enhanced" [ **Pastor Berlin Guerrero vs. Garcia, CA GR SP No. 104476, September 23, 2008**].

Respondent not only led, through her cabinet members such as her Security Adviser Norberto Gonzalez and her Justice Secretary Raul Gonzalez, and her subordinates in the AFP and the PNP in the public harassment of BAYAN and its members as enemies of the state, but also countenanced the abduction, illegal arrest and torture of Pastor. Berlin Guerrero through state security forces.

#### **85.10. The Extrajudicial Killing of Rev. Isaias Sta. Rosa**

On 3 August 2006 at around 10:35 p.m., Pastor Isaias Sta. Rosa was abducted and then murdered in Brgy. Malobago, Daraga, Albay by armed men wearing bonnets, at least one of whom was positively identified as a soldier.

Isaias Sta. Rosa was a member of Legaspi City United Methodist Church in South Bicol District, a freelance writer, project consultant for non-government organizations and Executive Director of the Farmers' Assistance for Rural Management Education and Rehabilitation, Inc., a non-government organization that gives assistance to farmers in improving their economy. He was also an active member of the peasant group Kilusang Magbubukid ng Bikol (Bicol Peasant Movement), an affiliate organization of the Kilusang Magbubukid ng Pilipinas (Philippine Peasant Movement) which is active in the fight for genuine land reform and calls for the ouster of President Gloria Macapagal-Arroyo.

At around 7:30 p.m. of August 3, 2006, three (3) hooded armed men who, except for one who appeared to be the leader and was wearing a maroon shirt and black short pants, were all wearing army-issued camouflage pants, combat boots and dark long-sleeved t-shirts, barged into the house of brothers Ray-Sun and Jonathan Sta. Rosa. The armed men were looking for their brother Pastor Isaias Sta. Rosa. They were told to lay prone on the ground while the armed men stepped on their heads and poked their guns on them. Ray was able to observe the presence of more armed men positioned amidst the bushes. Jonathan was hit with a gun barrel on his head when he tried to look around.

They then accused the two brothers of being members of the New People's Army, which the two denied. Thereafter, Jonathan was dragged at gunpoint to the house of his brother Pastor Sta. Rosa situated just a few meters from his own house.

Sonia, the wife of Pastor Sta. Rosa, heard a commotion outside their house. She peeped through one of their windows to check but she did not see anything. At that time, Isaias Sta. Rosa and children Demdem, Philip and Mikko were also inside the house.

They heard a knock on the door and Sonia heard the soft voice of Jonathan calling Isaias. She opened the door and saw Jonathan looking pale. As Sonia was calling out Isaias, a short stout man wearing a ski mask, a maroon t-shirt and short pants, and armed with a .45 cal. pistol barged inside their house and ordered them to drop to the floor. The armed stout man was followed by about six to ten similarly armed men who were hooded with ski masks, wearing black t-shirts, camouflaged pants and combat boots. Isaias Sta. Rosa was then immediately tied with his hands at the back. He was mauled while he was being forced to admit that he was the “Elmer” that they were looking for and that he had a gun. They herded Jonathan, Sonia, Dem-dem, Mikko, Philip and Ray into one of the rooms while Isaias was brought to the other room. The soldiers then left the house taking with them Isaias, who was still tied and bloodied. His laptop computer and cellular phones were taken from him.

Sonia rushed outside and called for help from her sister Madelyn, who lives near their house. The neighbors were stirred as Madelyn shouted for help. A few minutes later, gunshots were heard – six shots, a pause, then another three shots.

Ray, Jonathan and their neighbors immediately went to the direction where the gunshots came. There they found the body of Isaias Sta. Rosa along a creek about 50 meters away from his house.

They also found another dead body, with the face covered by a bonnet, wearing a maroon shirt and shorts about five meters away from the body of Isaias, along with a .45 caliber pistol fitted with a sound suppressor or silencer. He was the same man who led the armed group that abducted Isaias.

Afterwards, a group of policemen led by Colonel Capinpin, the chief of Daraga Police Station, arrived along with the barangay chief, Artita Padilla. The police recovered from the scene the pistol as well as one spent shell for .45 caliber pistol and one .45 caliber slug. Also recovered by the police from the then unidentified body were a Philippine Army identification card of one Private First Class Lordger Pastrana with expiration date of 9 December 2008, and a mission order issued in the same name by the 9<sup>th</sup> Military Intelligence Battalion of the 9<sup>th</sup> Infantry Division, Philippine Army, based in Camp Weene Martillana, Pili, Camarines Sur. The mission order is signed by Major Ernest Marc Rosal and bears the effectivity date 11 July 2006 until 30 September 2006.

The other dead body was later identified to be that of Pfc Lordger Pastrana of the Military Intelligence of the 9<sup>th</sup> Infantry Division. Autopsy reports showed that Isaias Sta. Rosa died after sustaining six gunshot wounds while Pastrana sustained one gunshot wound.

Immediately after the killing of Isaias Sta. Rosa, the police quickly announced it through media to be a case of robbery with homicide. However, on 24 August 2006, the regional office of the Philippine Commission on Human Rights released its Initial Investigation Report positively countering the theory of the police, stating thus:

*It is evident that there is legal ground to prosecute the army soldiers in the company of Cpl. Lordger Pastrana for murder as this case would not contemplate robbery with homicide, but one of murder in view of the mission order found in Pastrana's possession and the prior incident of assault upon the household of Sta. Rosa's neighbor, Alwin Mirabuna, wherein these armed suspects inquired the whereabouts of Isaias Sta. Rosa, a person possible subject of the secret mission. Since the identity of the suspects cannot be ascertained, it is recommended that the Commanding Officer in the above-cited mission order be legally made answerable under the principle of command responsibility governing military conduct.*

The military and the police did not conduct further investigation on the case. The military also refused to reveal any relevant data, such as the names of the team members of Pastrana. The military and the police tried to cover-up the case by declaring that Pastrana was on Absence Without Official Leave (or AWOL) and that he was in the place to woo somebody. The PNP on the other hand declared that the case is a simple case of robbery with homicide.

In the meantime, Sonia and her children are now living in constant fear, while Ray and Jonathan had to move out of their barangay. Sonia is also scared of filing a case in court because of the threat of retaliation from the perpetrators.

#### **85.11. Extrajudicial killings of Eddie Gumanoy and Eden Marcellana**

Eden Marcellana, then Secretary General of KARAPATAN-Southern Tagalog and Mr. Eddie Gumanoy, Chairman of KASAMA-TK, a peasant organization in the region, led a fact-finding team of 11 persons to Gloria, Mindoro Oriental on April 19-21, 2003 to investigate cases of human rights violations in that area.

On April 21, on their way back to Calapan City after their fact finding investigation, the passenger van the group was riding was blocked by armed men, some of whom were wearing military uniforms, at the town of Naujan, Mindoro Oriental. The armed men forcibly took away Ms. Marcellana and Mr. Gumanoy. Four others were separated from the group, blindfolded and dropped off in different places in Mindoro Oriental.

The following day, April 22, 2003, the lifeless bodies of Ms. Eden Marcellana and Mr. Eddie Gumanoy were found in a roadside ditch in Brgy. Alcadesma, Bansud, Mindoro Oriental. They were both brutally tortured before being killed. MSgt. Donald Caigas, intelligence officer of the 204<sup>th</sup> IBPA and military asset Aniano "Silver" Flores as well as elements of the 204<sup>th</sup> IBPA under the command of then Col. Jovito Palparan, Jr. are believed to be behind the killings and other human rights violations committed upon this group. Elements of the 204<sup>th</sup> IBPA, together with their military assets, are also believed to be behind these killings.

The other members of the 11-person fact-finding team that went with Ms. Eden Marcellana and Mr. Eddie Gumanoy to Gloria, Mindoro Oriental experienced threats and harassments while they were under the control of the armed men who commandeered the van they were riding.



The soldiers and armed men took their cell phones and wallets and threatened to kill them if they continue with their work.

#### **85.12. Extrajudicial killing of Alice Omengan-Claver and the Frustrated Killing of Dr. Constancio “Chandu” Claver**

Dr. Constancio “Chandu” Claver, a practicing physician, is the Chairperson of Bayan Muna-Kalinga and Vice-Chairperson of Cordillera Peoples Alliance-Kalinga. He is also the Chairman of the Board of the Philippine National Red Cross in Kalinga and a member of the Kalinga Medical Society. He served as the Executive Director of the Community Health Education Center in Kalinga Apayao. On the other hand, Alice Omengan-Claver was an active member of the Cordillera Peoples Alliance during her college years in Manila. Upon returning to Tabuk, she had been very generous in providing support to people’s organization including the Cordillera Peoples Alliance in Kalinga.

Sometime on 31 July 2006 at around 6:45 in the morning, Alice and Dr. Claver were aboard a Black Pajero Van when they were ambushed by unidentified gunmen-wearing black bonnet and sweatshirt. The assailants were on board a White and Black Delica Van with plate number BFC-372 and TNB-901, respectively. They were supposed to drop their daughter, Cassandra, to school at Saint Tom’s College in Barangay Bulanao, Tabuk, Kalinga when the incident happened.

Dr. Chandu Claver was seriously wounded while Alice Claver sustained multiple gunshot wounds. They were brought to the Kalinga Provincial Hospital where Alice expired six hours later while undergoing surgery. Their daughter, Cassandra (7 years old), escaped the attack physically unharmed but severely traumatized psychologically.

Task Force Bulanao was created to investigate the incident. The members of the Task Force showed Dr. Claver a cartographic sketch of a man who was seen by the witnesses as one of the gunmen who fired at their vehicle on July 31, 2006. Dr. Claver affirmed that the cartographic sketch matched the features of the man he saw briefly standing at the left side of his vehicle before he was fired at by the other man in a black ski mask and black sweat shirt.

#### **85.13. Extrajudicial killing of Agnes Abelon and her 5 year old son Amante Abelon, Jr. and the Frustrated Killing of Amante Abelon, Sr.**

Amante Abelon, Sr. and his wife are active members of Kilusang Magbubukid ng Pilipinas (KMP or Farmers’ Movement in the Philippines) and the progressive party-list organization Anakpawis (Toiling Masses) in Zambales, an area within the jurisdiction of the 7<sup>th</sup> Infantry Division of the Philippine Army then under the command of General Jovito Palparan.

Amante Abelon, Sr. is likewise an incumbent councilor of Barangay San Rafael, San Marcelino, Zambales. He is also the Vice Chairperson of Alyansa ng mga Magbubukid sa Gitnang Luzon-Zambales Chapter (AMGL or Alliance of Central Luzon Farmers) a chapter organization of KMP. He likewise served as Municipal Chairperson of Anakpawis in, Zambales.

On March 20, 2006, at around 11 a.m., while he, his wife Agnes, and their five-year old son, Amante, Jr., were on board their motorcycle on

their way home from the Municipal Hall of Castillejos, Zambales, two (2) men on board another motorcycle fired at them. Amante, Sr. was hit by three (3) bullets on his left arm. The motorcycle the Abelons were riding skidded and fell to the ground. Knowing that he was the target of the gunmen, his wife prodded him to run. While running, he told his wife and child to do the same as he believed the armed men were only after him as the gunmen continued to fire at him. They stopped shooting only when they reached a crowded place.

Amante, Sr. suffered nine (9) gunshots wounds in different parts of his body. He was able to call for help and was brought to a hospital for treatment. It was only after his one week confinement in the hospital when he learned that his wife, Agnes and his son, Amante, Jr., were shot in the head by his assailants. Despite the fact that the incident happened on the highway and the police responded immediately, they did not conduct an investigation, did not even take photographs of the crime scene nor, at the very least, made a sketch of the place of the incident and the relative position of the victims, all of which are standard operating procedure in crime investigation.

While Amante, Sr. was in the hospital, unidentified men were still looking for him.

To date, the perpetrators have not been prosecuted. Abelon believes that his frustrated summary execution and the killings of his wife and child were the handiwork of the intelligence forces of the Philippine Army and the same were politically motivated as they were active members of KMP and Anakpawis.

#### **85.14. Extrajudicial killing of Diosdado Fortuna**

Diosdado Fortuna or “Ka Fort” as he was fondly called by his colleagues was the president of the Union of Filipino Employees, the recognized bargaining union of the employees in Nestlé Philippines. He led the workers’ strike starting January 14, 2002 after the management refused to comply with the 1991 Supreme Court ruling on the inclusion of the workers’ retirement benefits in their collective bargaining agreement. Fortuna was also the chairperson of PAMANTIK-KMU, the regional formation of trade unions based in Southern Tagalog; and the chairperson of Anakpawis Party-list in the same region.

On 22 September 2005, Diosdado Fortuna was shot twice in the back by two unidentified armed men in the subdivision near Sagara Factory in Barangay Paciano, Calamba City. The bullets went through his chest fatally hitting his heart, liver and spleen, and causing his instant death.

Prior to his death, he reported that he had constantly been under surveillance from the time the union went on strike. He had several encounters with the police on different occasions.

Sometime on April 2002, Fortuna, together with other sectoral leaders, was invited by the then General Cesar Sarino at Camp Vicente Lim to supposedly discuss the problems in the picket line. During the meeting, however, they were told that 95 unions under the banner of Kilusang Mayo Uno (KMU or May First Movement) were suspected fronts of the CPP-NPA and were all under surveillance.

On 12 October 2003, Jose Betito, another labor organizer in the region was abducted in front of the PAMANTIK office. The abductors mistook him for Fortuna. According to him, he heard one of the abductors tell his companion that Betito was not the one they were looking for. Betito was illegally detained for more than 24 hours during which time he was shown surveillance videos and photos of Ka Fort. There was even a video and photo of Ka Fort with X marks, he said.

Although Ka Fort's case has been reported to Calamba-PNP and Task Force FORTUNA was created to investigate the case, to date the investigation has not progressed.

#### **85.15. Extrajudicial killing of Sichi Bustamante Gandinao**

Sichi Bustamante-Gandinao was a member of Misamis Oriental Farmers Association (MOFA) and Bayan Muna Party-L/ist. MOFA has been accused by the 8<sup>th</sup> IBPA under the command of Lt. Col. Eric Vinoya of being a supporter of the NPA.

Before Sichi was summarily executed, her family (husband Anselmito and children Elda and Allen) used to work on weekdays in their farm in Sitio Nabuolan, Barangay Guinalaban, Salay, Misamis Oriental, and spent weekends in their home at Purok 7, Poblacion, Salay. In the morning of March 5, 2007, while the family was in their farm, they noticed several elements of the 8<sup>th</sup> IB roaming about near their farm until the family left the place on March 10, 2007.

On March 10, 2007, at around 7 a.m., Allen, with a cousin, went to the barangay hall of Guinalaban upon the invitation of Sgt. Bahian. They found several elements of the 8<sup>th</sup> IB outside and inside the barangay hall. Thereat, Allen was asked by Sgt. Bahian and Pfc. Booc if he had an ID, if his mother Sichi had one, too, to which he replied in the negative. He was also asked what time Sichi would leave the farm and answered that maybe after lunchtime.

On their way back to the farm, Allen and his cousin were escorted by a soldier in civilian clothes. Upon reaching Sitio Taas, they saw two motorcycles with two riders on each wearing helmets and jackets. The first motorcycle was a red XRM which slowed down upon seeing Allen, but immediately went ahead when the second motorcycle signaled to it. At around 2 p.m. of March 10, 2007, the family began their trek down to Salay poblacion. Anselmito walked ahead of his wife and daughter, as he was steering the cow sled which was loaded with a sackful of rootcrops. Sichi was about ten meters away behind Anselmito. At arms length behind Sichi was her daughter Elda who was lugging a backpack full of bananas.

In their hike, they passed by the detachment of the 8<sup>th</sup> IB where Elda saw a red XRM motorcycle parked by the gate. About 50 meters away from the detachment, Elda noticed a man who walked past her, grabbed a gun on his waist, suddenly turned around faced Sichi and instantaneously fired successive shot at the latter. Sichi tried to take cover from the attack but fell down. She was hit on her hand, forearms and chest.

Shocked with the rapid turn of events, Elda was not able to come to the aid of her mother being attacked. She screamed for help. It was

only that time that Anselmito saw what had happened. Meanwhile, the assailant instantly disappeared towards the direction of the military/CAFGU detachment.

Anselmito picked up the bloodied Sichi, while Elda continued shouting for help. Many residents in the barangay heard her cry for help but nobody responded. The barangay chairman feigned helping by calling for the patrol car but later announced it would not be dispatched as it was elsewhere.

While Anselmito was rushing on foot the still breathing Sichi to the nearest hospital, a motorcycle passed. Its driver offered help and took Anselmito and Sichi on board. After a short distance, however, the driver asked the spouses to alight as the motorcycle could not bear their weight. While screaming for help, Elda saw military officers playing basketball. But these soldiers never offered help and went on playing as if nothing was happening.

When Allen came back, he and Elda alternately carried Sichi on foot. Exhausted, the siblings dropped down by the roadside, with Elda still screaming for help. A moment later, they saw a motorcycle approaching. Two male riders were on board it. Elda cried for help and asked them to take her mother to the nearby hospital. But her cries fell on deaf ears. The motorcycle headed to the military detachment.

Later, the same motorcycle appeared, along with the red XRM motorcycle earlier seen by Elda at the detachment. One of the two riders thereon was the same person identified by Elda as the one who assaulted her mother. At that instant, Elda cried on top of her lungs, "That man on the motorcycle, he shot Nanay! Take note of the license plate!" No one attempted to stop the motorcycle which sped away and which bore no license plate.

Finally somebody helped them take Sichi to their house in Purok 7. The family thought Sichi had expired. But they heard Sichi moan softly, so they brought her to the municipal hall where an ambulance took Sichi to Cagayan de Oro City, an hour and a half away from Salay. On their way to the city, they dropped by the Balingasag Medicare Hospital to give Sichi a dextrose. But she was declared dead on arrival at said hospital. The attending physician said Sichi sustained four gunshot wounds. The motive behind the summary execution of Sichi is clear. Sichi was one of the witnesses in the murder of Dalmacio "Daki" Gandinao who was gunned down on February 8, 2007. Sichi submitted a written testimony to Mr. Philip Alston in Davao City. Alston is a UN Rapporteur on Extra-judicial, Summary and Arbitrary Executions who recently came to the country and conducted an investigation into the escalating incident of extrajudicial killings of activists in the Philippines. In said investigation, Sichi identified the military agents who cased the house of Dalmacio before he was murdered.

After giving her testimony, Sichi and her family began noticing unusual movements at night near their house and being subjected to surveillance. Even before her testimony before Mr. Alston and while Dalmacio was still alive, the latter had warned Sichi that she and her sister Tina were in the military's order of battle.

Moreover, immediately prior to her murder, the military conducted a “pulong-pulong” in their barangay where they announced that they were out to get someone in Purok 7 of Barangay Guinalaban and in Barangay Alipuaton (where Tina lives).

#### **85.16. Extrajudicial Killing of Expedito and Manuela Albarillo**

On March 2002, military elements "invited" Expedito "Ispid" Albarillo to their camp (which they called club house), but before arriving at the camp he proceeded to the house of Mar Aldava to ask the latter to go with him. Upon arriving at the camp, Expedito conversed with 1st Lt. Dennis Plaza, who told him, "Ka Ispid, malinis ka na dahil nagreport ka na dito sa kampo." (Comrade Ispid, you're clear with us because you have reported to us here in the camp.) To which Expedito retorted, "Ano po ba ang dapat kong ipalinis sa inyo? Ang Ispid naman po ay palayaw na ginagamit ko." (What, sir, am I supposed to clear with you? Ispid is really the nickname I use.)

Before he left, the military asked Ispid for a copy of his picture. Ispid hesitated, and said, "Baka po iyan lang ang magbigay ng kapahamakan sa akin." (Giving you my picture might get me into trouble.) The military personnel snapped, "Hindi, gusto lang namin na lagi kang nakikita at lubos na makilala." (No, we just want to frequently see you and get to know you better.) Mar Aldava, in the meantime, talked with Lt. Dimapinto, who said, "Lahat ng nasa order of battle na hindi namin masupil ay tinutuluyan naming patayin, at si Ka Ispid Albarillo ay nangunguna sa nasa order of battle, pumapangalawa ang apat na Aldava." (We kill everyone who is in our order of battle and cannot be silenced. Ispid Albarillo is at the top of our order of battle, seconded by the four Aldavas.)

On April 8, 2002, Monday, at around 5:00 in the morning, at least 8-armed men arrived at the house of Lorna Pantoja. Some of the armed men were in complete military uniform, while some were wearing black outfits with bonnets covering their faces. Lorna's husband was about to leave their house when the armed men prevented him from leaving. The armed men then proceeded to guard the house so no one inside can leave. At around 5:30 am, some of the men guarding Lorna's house proceeded to Ispid Albarillo's house. Soon afterwards, Lorna and her husband heard Manuela, Ispid's wife, screaming, "Bakit nyo kami ginaganito? Maawa naman kayo sa amin!" (Why are you doing this to us? Please have mercy on us!) They then saw the couple being forced by the armed men out of their house. They were hugging each other, crying, and pleading for mercy as they were being taken by the armed men. Lorna and her husband can only helplessly watch as the armed men held captive the terrified couple.

Ispid and Manuela's pleadings were continuously ignored by their captors, who then forcibly took them 200 meters away from their house. At around 6:00 am, Lorna heard gunshots, and hysterically pleaded to the armed men not to hurt the couple. Lorna and her husband attempted to leave the house, but once again they were prohibited by the armed men. Moments later, the armed men left the premises. Lorna immediately proceeded to the spot where the Albarillo couple was forcibly brought. She saw the couple on the ground, bloodied and lifeless. Immediately, Lorna noticed three gunshot wounds in Ispid's back. She turned over Ispid, and was shocked to see that Ispid's left eye was missing, apparently

gouged out by a knife. Lorna noticed a large wound on Ispid's left arm, one gunshot wound in his armpit, and 4 gunshot wounds in his side. The left side of Manuela's neck, meanwhile, was shattered, due to a gunshot wound entering below her right eye. Manuela also had a gunshot wound in her left armpit.

Because of what happened, two relatives of the slain Albarillos went to the San Teodoro town to ask for help from the police. At about 7:00 in the morning, the two relatives arrived with two police officers, one of them introducing himself as Inspector Patrick, along with at least 14 soldiers who were camped in the San Teodoro town. Upon arriving at the scene of the crime, the soldiers ignored the empty shells scattered around the scene. The soldiers were laughing most of the time. Some military men asked the villagers whom they thought were responsible and what they looked like. The villagers replied that the perpetrators looked like the soldiers and wore the same uniforms. Afterwards, the military men fell silent and stopped asking questions.

To date, there has been no serious investigation (and prosecution) of the perpetrators of the killing of the Albarillo couple. The authorities lost or “misplaced” the evidence gathered from the scene of the crime.

#### **85.17. Abduction and Torture of Oscar Leuterio, Bernabe Mendiola, Virgilio Calila and Teresa Calilap**

On April 17, 2006, at around 10:35 in the morning, while Bernabe Mendiola was handing out the salaries of the workers in Iron Ore Mining, around 30 military elements in plainclothes, together with civilian guides Bitoy, Alladin and Alvin Pastrana, indiscriminately fired upon the workers' site. At that time, there were more or less 60 workers in the work site. The assailants were armed with high caliber rifles such as M203, M16 and M14, and their faces covered. The civilian guides who were bare-faced were also armed with high caliber rifles.

The armed military men went to the workers' huts located in the mining site. The workers were bodily searched and their personal belongings such as cellular phones, money and other personal items were forcibly taken from them. More or less 30 cellular phones and cash amounting to about P200,000 were taken from the workers.

The workers were all ordered to lie face down on the ground in front of the hut located at the center of the site and under the scorching heat of the sun from 10:35 am to 5:00 pm. Oscar Leuterio, Bernabe Mendiola, and the couple Virgilio and Teresa Calilap were separated from the rest of the workers. Their hands were tied and they were kicked, trampled and hit by M16 and M14 rifle-butts in different parts of their bodies. While being beaten, they were forced to tell the armed men the names and whereabouts of the members of the NPA.

At around 5:00 pm, the four victims were ordered to stand up and were blindfolded. Their abductors took them to the woods about 200 meters away from the center of Brgy. Camaching on board a truck owned by Iron Ore Mining. At the woods, the four workers were subjected to further beatings. They were again interrogated on the whereabouts of the NPA.

At around 10:00 pm, they were brought to Camp Tecson in San Miguel, Bulacan. Oscar Leuterio said he saw where they were taken to because his blindfold got loose and he saw the words Camp Tecson on the arch they passed through. They were taken to a small hut in the rear part of the camp. They were deprived of food, and they were subjected to more beatings. A certain Boy Muslim in yellow T-shirt and denim pants and who was drunk was carrying out the torture.

Boy Muslim pounded on Oscar Leuterio's head with a 2x3 piece of wood that produced a big gash on the left side of his head. The same piece of wood was also used to pound his fingers and toes causing them to burst open. The wood was also used to clobber his legs and knees. When Boy Muslim once again struck his head with the piece of wood, Oscar lost consciousness. The other three victims suffered the same fate as Oscar's. The latter related that before he lost consciousness, he witnessed the beatings suffered by his other companions since they were all placed inside the same hut.

When Oscar regained consciousness, he saw his companions and an investigator who did not identify himself. The investigator told him that they were thankful that he regained consciousness because they all thought he was already dead. The investigator tried to mollify him by saying that Boy Muslim is really evil when drunk and he was only doing his job.

In the morning of April 18, 2006, Oscar was taken out of the hut and was brought to a table beside it for questioning. The investigator asked him the names of the members of the NPA and where they were hiding. The questioning lasted for half an hour, after which, he was brought back inside the hut and the rest of the victims were also taken out for questioning.

Oscar related that because they were blindfolded and their hands were tied, a boy who introduced himself as Noli fed him during lunch. Noli was an altar boy of Fr. Viola, a Catholic priest from their hometown and the son of Oscar's friend Lito. Noli was arrested because his brother is suspected to be an NPA member and his family allegedly supports the NPA.

They were made to take a rest after lunch and at about 8:00 in the evening they were taken on board a van; Oscar assumed this because they entered it through a sliding door on its side. He also sensed that other than the four of them, there were military men on board the van.

The travel lasted for about three hours, after which they were brought to a house in the middle of the woods, which they later found out to be inside Fort Magsaysay in Laur, Nueva Ecija. They figured this out when they heard male voices talking about their plan to go to a wet market in Cabanatuan. This was later confirmed when they heard aircraft landing and taking off in a nearby airstrip. Fort Magsaysay is the closest military installation with an airstrip.

They were taken into a house with four adjoining cells. Each cell measured about 6x3x5 feet. It had concrete walls and floor and metal grills topped with galvanized iron roofing. It also had a toilet made of hollow blocks at its other end.

Oscar was placed in the cell closest to the door, to his right was placed the Calilap couple, next to their cell was Bernabe Mendola's and the last cell was occupied by the brothers Raymond and Reynan of Bohol na Mangga, San Miguel, Bulacan. Until now Mendiola remains missing.

On the seventh day of their incarceration, the beatings resumed. They were whipped with a water hose in different parts of their bodies while being questioned on where they hid the guns and the names of those in possession of guns. The whipping lasted for about 5 minutes.

They were blindfolded every time they were taken out of their cells for questioning but their blindfolds were removed once they were inside. Since Oscar's cell was beside the door, he could see the people outside through the space in the door when it was not properly closed.

The guards told them that "lolo's replacement will take them home". Oscar found out that it was a certain Gomez who accompanied them. Oscar and Manuel together with another abducted person were finally released. Oscar was made to get off in San Ildefonso, Bulacan and was told to hire a tricycle to go home. It took him two weeks to find a cellular phone to contact his son to pick him up.

**85.18. Abduction, Illegal Arrest, Arbitrary Detention and Torture of Fernando Torres, Nonilon Parro, Herbert Imperial and minors Jefferson Paraiso, Kennedy Abilio, and Joey Imperial**

Fernando Torres, Nonilon Parro, Herbert Imperial and minors Jefferson Paraiso, Kennedy Abilio, and Joey Imperial collectively known as the "Lopez Six" are farmers from Lopez, Quezon. On June 7, 2006, an encounter between the NPA and elements of the Philippine Army occurred in Sitio Amogis, Barangay Pisipis, Lopez, Quezon, where an army soldier was killed and another wounded.

On that day, minors Jefferson Paraiso, Kennedy Abilio and Joey Imperial together with Herbert Imperial were gathering copra, (dried coconuts for milling) when they heard the gunfire from a nearby area. Since it was dangerous for them to continue with their work, they stopped and went to their uncle, Fernando Torres. They decided to resume working when the gunfire stopped. Along the way, however, they met the elements of Philippine Army who immediately took them into custody and brought them to the scene of the encounter. They were hogtied and subjected to bodily harm by the military. Thereafter, they were brought to Barangay Villa Espina where a truckload of soldiers were waiting.

They were brought blindfolded to a military camp in Barangay Banabain, Lopez, Quezon. A case of rebellion was filed against them by the military. While in military custody, they were subjected to physical and psychological torture to force them to admit to the false allegation that they are members of the NPA.

**85.19. Abduction, Illegal Arrest, Arbitrary Detention and Torture of Angie Ipong**

On 8 March 2005 at about 2:00 in the afternoon, Angie Ipong was forcibly abducted without a warrant of arrest by armed men wearing bonnets who introduced themselves as members of the Philippine National Police-Criminal Investigation and Detection Group (PNP-CIDG)



at the Anastacia Mission Village in Barangay Lumbayao, Aloran, Misamis Occidental where she was supposed to have a consultation meeting with peace advocates regarding CARHRIHL. With only sleeping garments on, she was dragged into a silver white van and blindfolded despite her pleas.

Ipong was held incommunicado until 11 March 2005 inside a bunker at the 1<sup>st</sup> Infantry (Tabak) Division Camp of the Philippine Army in Pulacan, Labangan, Zamboanga del Sur. She was photographed against her will. As a sign of protest, Ipong went on a hunger strike.

On 12 March 2005, she was brought to the AFP-Southern Command Headquarters in Zamboanga City where she was interrogated under duress, tortured and sexually molested. There her abductors tied her hands to her back, punched her at the sides and hit her head. They blindfolded her every time she was interrogated. They undressed and subjected her to acts of lasciviousness. They fondled and made her breasts and other private parts the object of fun. Ipong was placed in a room with the air-conditioning unit intentionally switched on full blast. It was under this condition that Ipong was forced to admit though untrue that she was a top ranking official of the CPP-NPA.

After the forced “admission,” Ipong was spared from further torture. Although obtained through force and under duress, this was made the basis for the rebellion and triple murder cases filed by the Judge Advocate General Office of the Armed Forces against her before the Regional Trial Court of Dipolog City.

On 14 March 2005, Gen. Braganza of the Southern Command presented her to the media allegedly as a captured NPA leader. At that time, she was so sick, nauseated and pained that her abductors had to wheel her in.

On 18 March 2005, she was brought to the Molave Municipal Hall then to Ramon Magsaysay Prison.

The following day, or on 19 March 2005, Ipong was taken to Pagadian City Jail where she is currently illegally detained.

From the time Ipong was abducted until 20 March 2005, her family, friends and legal counsel had searched for her in different military camps, including the 1<sup>st</sup> Infantry Tabak Division in Pulacan, Labangan, Zamboanga del Sur. But the military denied having arrested Ipong or having her in their custody. It was not until 21 March 2005 that Ipong was allowed to be visited by her lawyer, Atty. Andres Nacilla, and by KARAPATAN.

#### **85.20. Abduction, illegal arrest, arbitrary detention and torture of Ruel Marcial**

Ruel Marcial is a farmer from Aritao, Nueva Viscaya and a member of the United Church of Christ in the Philippines (UCCP).

After the body of Pastor Andy was brought to Funeraria Ilagan, the other residents of Brgys. Fatima and Tayabo who accompanied Pastor Andy were ordered to go home, except for Fidel Palting and Marcial.

Palting was forced to ride on a motorcycle with a soldier. When the motorcycle returned, Marcial was also told to board the same motorcycle. He was later transferred to a waiting L300 van. Marcial was blindfolded, handcuffed and brought to a place he later learned to be Sto. Nino Camp, a military camp in San Jose City.

Inside the camp, while Marcial was still blindfolded and handcuffed, his shorts and briefs were removed. He was subjected to interrogation. He was forced to admit being a member of the NPA. He was asked, "Where are your comrades?"; "Where are they keeping their guns?" Whenever Marcial replied he was not a member of the NPA, physical assault and torture were inflicted on him for two straight days.

He was kicked on his left shoulder and neck. He was punched on his left shoulder and abdomen. He was beaten using a wooden bat on both arms and the lower parts of his body especially his buttocks. His skin on the lower left thigh was pinched with mechanical pliers. A lighted cigarette was pressed on his legs. He was burned on his legs and lower parts of his body with a flaming wooden stick. During the interrogation, the soldiers were drunk. Marcial was also forced to drink liquor. His captors tried to burn his nose with a lighter. With bullets inserted between his fingers, his hands were squeezed. His anus was pricked with the pointed tip of a bolo or knife.

The torture was inflicted continually. Marcial was not allowed to sleep nor rest. He was threatened he would be killed. His captors inserted cogon grass and stalks into his penis. At times during the interrogation, he was made to lie down and remove his blindfold but his eyes were rubbed with salt. His captors also forced open his mouth, poured water in and tried to drown him. They also choked Marcial with a rope. The nails of his big toes and the 2<sup>nd</sup> digit of his left foot were pried off using a bolo. The soldiers also cut his hair using a knife or a bolo and removed part of his scalp on the back of his head. Unable to bear the pain and horror of torture by the soldiers, Marcial was forced to declare that he was a member of the NPA and that he was willing to cooperate to find the rebels' camp. Thereafter, in the course of the physical and psychological torture, Marcial lost consciousness.

When he woke up, his foot was bound to a post with a metal chain. His blindfold was removed. From then on, he was allowed to sleep and the soldiers fed him. He was held captive for more than one month. While Marcial never saw Palting inside the camp, he surmises that Palting was in one of the huts in the camp because he saw soldiers guarding a hut and bringing food.

On July 7, 2006, while the soldier assigned to guard Marcial left for a few minutes to get food for their supper and while only a few soldiers were in the camp at that time, Marcial was able to free himself using a big nail to remove the lock of the metal chain that bound his foot. He ran away from the camp and walked in the forest for about 2 days. He sought help from a friend who brought him to a safe place. While Marcial was brought to a sanctuary, a petition for habeas corpus was being prepared by the family of Fidel Palting. Before they could file the petition, however, the military surfaced Palting and brought him back home. Palting was seen holding a handheld radio and cell phone apparently given by the military requiring him to report to the military. To date, Marcial fears for his life and continues to stay in a sanctuary.

### **85.21. The Hacienda Luisita Massacre**

On November 6, 2004, in Hacienda Luisita, a sprawling sugarcane estate in Tarlac City covering more than 6,400 hectares and owned by the Cojuangco-Aquino clan, the workers therein belonging to United Luisita Workers' Union (ULWU) and the Central Azucarera de Tarlac Labor Union (CATLU) simultaneously declared a strike to compel the management/owners to heed their legitimate economic demands, such as increase in wages and better terms and conditions of employment. ULWU also demanded the reinstatement of the illegally dismissed officers and members of the union.

Their strike also exposed the fraudulent scheme adopted by the management to deprive the farm worker-beneficiaries of their right to land through the deceptive Stock Distribution Option (SDO) instead of distributing it to them pursuant to the avowed land-for-the-landless policy of the state as provided under the Comprehensive Agrarian Reform Law.

By a combination of misrepresentation and intimidation, the management was able to impose the SDO scheme on the farm workers and peasants in the hacienda. It promised to them that the SDO would improve their lives. In reality, though, the scheme has further impoverished them.

Officers and members of ULWU believe that their filing of a petition in 2003 seeking the revocation/nullification of the SDO in Hacienda Luisita may have been the reason for the union busting and the illegal dismissal of the farm workers.

On November 6, 7 and 15, 2004, despite the peaceful strike of the workers, hundreds of police officers attempted to break up the picket line using tear gas, water cannon, truncheons and later firearms, which seriously injured many strikers.

Despite the threat of an impending bloody dispersal, the strikers stood their ground. On the other hand, though, President Macapagal-Arroyo and her government simply turned a cold shoulder to the plight of the striking workers. Her deafening silence was interpreted as acquiescence to the police violence in Hacienda Luisita.

Worse, her alter ego at the Department of Labor and Employment (DOLE), Secretary Patricia Sto. Tomas, issued an Assumption of Jurisdiction (AJ) Order on November 10, 2004. Although it was issued solely against CATLU, curiously, said AJ was forcibly served upon ULWU. More strangely, the Labor Secretary deputized not only the police but also the Armed Forces in the supposed full implementation of the AJ.

To avert further violence against the strikers, in the morning of November 16, 2004, the respective officers of ULWU and CATLU went to the Makati residence of former Congressman Peping Cojuangco, a co-owner of Hacienda Luisita. Their purpose was to negotiate with the former congressman and his wife to spare the people from the looming violent and bloody dispersal of the strike as enunciated in the Assumption of Jurisdiction.

Insisting that the ULWU officers no longer had any personality to talk with them because they were deemed dismissed, Mr. Cojuangco and his wife denied the ULWU officers entry into their house.

No agreement was reached during the negotiation. Mr. Cojuangco stood firm on his stance to leave the matter to the decision of the DOLE. Thus, the union officers went back to the picket lines in Hacienda Luisita. At that time, hundreds of PNP elements and AFP soldiers in full battle gear were already deployed inside the sugar mill compound. Positioned along with them were two armored personnel carriers (APCs), two pay loaders and four fire trucks. Only the steel gate at Gate 1 of the sugar mill separated the combined military and police forces from the strikers.

Immediately thereafter and without any negotiation between the strikers and the dispersal teams taking place first, the latter assaulted the strikers. The dispersal teams blasted the strikers with water from the fire trucks, which stung their skin. They also lobbed the strikers with tear gas. Unsuccessful in their attempt to crush the picket line, the dispersal teams commandeered an APC that pounded upon the steel gate. When it had smashed open the gate, the people started throwing stones or anything they could put their hands on at the APC to thwart its attempt to disperse them.

Having caused the APC to retreat, the people lifted their hands in jubilation, only to get shocked shortly thereafter by successive gunshots indiscriminately fired upon them. Every one scampered and ran for cover. In just a moment, seven strikers lay dead while a number of others sustained severe gunshot wounds.

A little while later, more than a hundred other strikers were illegally arrested and arbitrarily detained en masse by the military and the police, not sparing a woman who was seven months pregnant.

The violent massacre did not put an end to the gross violations of the rights of the striking workers. On the contrary, the Cojuangco-Aquino family, in conspiracy with the military, the police, the paramilitary groups such as the Civilian Armed Forces Geographical Units (CAFGU), and other hired agents/gunmen, has continued to harass, threaten and violate the rights of the hacienda people.

On the night of December 8, 2004, Marcelino Beltran, himself a peasant and a key witness to the massacre, was brutally murdered in his home in a remote village in Tarlac.

On the night of January 5, 2005, hacienda workers George Loveland and Ernesto Ramos were fatally injured when still unidentified bodyguards of Rep. Benigno “Noynoy” Aquino, who were armed, attacked them at the picket point outside Las Haciendas gate.

On March 3, 2005, Abelardo Ladera, a duly elected councilor in Tarlac City, a member of Bayan Muna and a staunch supporter of the strike, was shot dead by a single bullet in the chest while he was buying some spare parts for his automobile.

On March 13, 2005, Fr. William Tadena of the Philippine Independent Church, who also strongly supported the plight of the

strikers, was likewise gunned down after officiating mass in his parish in La Paz, Tarlac.

Thereafter, another peasant strongly supporting the strikers, Victor Concepcion, was likewise summarily executed in his house. In the nighttime of October 25, 2005, while resting after personally distributing the unpaid earned wages and benefits of the sugar mill workers, Ricardo Ramos, president of CATLU and village chairman of one of the barangays located inside the hacienda, was brutally gunned down near his house.

Villages in the hacienda have become heavily militarized. Many villagers have complained of being subjected to illegal arrest. Others have been unjustly suspected of being NPA members and are being forced to admit and sign rebel returnee's papers.

At 2 a.m. of November 14, 2005, strikers manning the picket point in Brgy. Balete were mauled and seized by elements of the 48<sup>th</sup> Infantry Battalion under the command of Maj. Gen. Jovito Palparan who was then chief of the 7<sup>th</sup> Infantry Division. Eleven of the strikers were illegally and forcibly taken to a safe house where they were interrogated. Three of them were subsequently charged with illegal possession of firearms on the basis of planted evidence.

Rene Galang, president of ULWU, and his family have been principally targeted by the military and the police. Several elements of the military have virtually maintained a detachment in a house just across his residence. They would ask around about his whereabouts. In addition, on or about September 26, 2005, they broke into his house. His wife was slapped in the face by the military for having told the people about the break-in by these soldiers. Even his children experienced harassment and intimidation by the military while at school.

On March 17, 2006, around midnight, another officer of ULWU, Tirso Cruz, was murdered in cold blood by the military near his house inside the hacienda.

Remarkably, all throughout the struggle of the workers and their families, Macapagal-Arroyo maintained almost complete silence and showed her utter lack of concern over the issues confronting the people.

Only once did she issue a statement, at the prodding of the CBCP, hypocritically hoping for a peaceful resolution of the conflict at Hacienda Luisita. To the Hacienda workers and farmers, the president's cold response amounted to tacit approval of the continuing unlawful aggression committed by the military, police and paramilitary forces, in collusion with the hacienda owners, against the poor working people in the hacienda.

On January 13, 2005, ULWU and CATLU and the victims of the Hacienda Luisita massacre filed criminal cases for multiple murder and multiple frustrated murder, among others, against the owners of the hacienda, the numerous military and police officers who perpetrated and ordered the violent dispersal of the otherwise peaceful strike, and Sec. Patricia Sto. Tomas.

To date, however, the Office of the Ombudsman, before which the cases were filed, has sat on their bounden duty to investigate and prosecute these cases.

The Philippine National Police, feigning an impartial and unbiased investigation into the incident, likewise came up with its report of its investigation which, expectedly, absolved the state forces, save for less than a handful low-ranking police officers.

The victims of the massacre and their relatives and supporters have already brought this case to the attention of the local Commission on Human Rights, the United Nations and other international fora. It has also been the subject of legislative inquiries in the two chambers of the Philippine Congress. After more than two years and despite efforts of the victims and their relatives and supporters to seek justice, the Office of the Ombudsman is yet to act upon their petition.

#### **85.22. The Extrajudicial Killing of Rev. Andy Pawican**

On May 21, 2006, Pastor Andy Pawican of the United Church of Christ of the Philippines (UCCP) - Pantabangan was on his way home to Sitio Maasip, Barangay Tayabo, San Jose City from Sunday worship in Sitio Maluyon, Barangay Fatima, Pantabangan, Nueva Ecija. He was with his wife, Dominga Pawican, their eight-month-old baby, his mother-in-law Maria Binlingan and a neighbor named Bernadette Tayaban.

About 200 meters before reaching their house, they were stopped by three soldiers in uniform belonging to the 48<sup>th</sup> Infantry Battalion which is under the command of the 7<sup>th</sup> Infantry Division of the Philippine Army.

The soldiers ordered Pastor Andy Pawican to stay allegedly because they wanted to discuss something with him. Thus, Maria Binlingan, Dominga Pawican and Bernadette Tayaban went ahead while Pastor Andy, who was carrying his eight month-old baby, stayed behind.

At around 2:30 p.m., several shots of gunfire were heard from the place where Pastor Andy was held by the army soldiers.

Several minutes later, a soldier came to the house of Dominga Pawican carrying Pastor Andy's eight month-old baby, her shirt stained with blood and with a scratch on her face. It was then that the family of Pastor Andy learned that he was shot to death by the soldiers for allegedly being a supporter of the New People's Army and for allegedly fighting back at the soldiers. The relatives and friends of Pastor Andy were not allowed to go near his body which was heavily guarded by military soldiers until the following day.

On May 22, 2006, residents of barangays Fatima and Tayabo, namely, Blacio Binlingan (father-in-law of Pastor Andy), Roger Binlingan, Mempe Ruiz, Marlon Talac, Mariano Muling, Pastor Sebio Guindayan, Carlito Hongduan, Telio Palting, Paredes Baguilat, Anton Balectad, Fidel Palting and Ruel Marcial went to Sitio Maasip, Brgy. Tayabo upon the plea of spouses Paredes and Estela Baguilat to accompany them back to their house in Brgy. Tayabo, Nueva Ecija. The spouses were among the residents of Brgy. Tayabo who fled their homes when the military soldiers started firing their guns.

On their way to Brgy. Tayabo, they saw the body of Pastor Andy being guarded by more or less sixty soldiers led by Lt. Ariel Galado and Lt. Freddie Lobusta of the 48<sup>th</sup> IB, 7th Infantry Division of the Philippine Army. The residents saw a gunshot wound on the head of Pastor Andy, his arms heavily bruised and bore cigarette burns, his eyes swollen with a heavy black-eye and his feet twisted. He was still wearing the barong tagalog he wore during the Sunday mass.

When the soldiers saw the residents, they asked them where they were going and if they were supporters of the NPA. They noticed Fidel Palting who had long hair and asked him if he was a member of the NPA. Under duress, he was forced to lie and say that he was a member of the NPA. The soldiers also forced him to point to other members of the NPA. Fidel Palting was forced to say that Ruel Marcial, his first cousin, was an NPA supporter.

The soldiers asked the residents to carry the body of Pastor Andy to Brgy. Tayabo, San Jose City. They were escorted by more or less twenty soldiers.

Upon reaching Brgy. Tayabo, the remains of Pastor Andy was boarded on a six by six military truck. The soldiers ordered Blacio Binlingan, Mempe Ruiz and Marvin Palting to bring the corpse to Funeraria Ilagan in San Jose City. The other residents were ordered to go home.

Fidel Palting and Ruel Marcial were, however, ordered by the military soldiers to stay. They were forcibly brought to the Sto. Niño Camp 2<sup>nd</sup> in San Jose City which is the headquarters of the 48<sup>th</sup> Infantry Battalion under the leadership of Lt. Col. Joselito Kakilala. The 48<sup>th</sup> IB is a component of the 7<sup>th</sup> Infantry Division of the Philippine Army which at that

#### **85.23. Attacks on Members of the Media**

Since President Macapagal-Arroyo assumed the presidency in 2001 to date, there have been 48 work-related killing of journalists. Remarkably 12 of them were killed in 2006 alone. Other journalists face threats and harassments in an attempt of those in power to silence them.

#### **85.24. Attacks on Lawyers**

The country is not only a dangerous place for journalists and activists but for members of the legal profession as well. In 2006 alone, a total of seven lawyers have been killed while nine lawyers, one judge and one law student were killed in 2005.

Most of those killed were human rights lawyers and were killed by reason of the exercise of the profession or advocacy. Also reported were a number of cases of threats and harassments against lawyers involved in land and labor disputes and human rights cases.

#### **85.25. Attacks on Communities as part of counter-insurgency operations**

As an integral and major component of its “counter-insurgency”, “counter-secessionist”, and now “counter-terrorist” strategy, the AFP and PNP have invariably conducted massive military operations in the countryside, in “critical areas” identified as “rebel-infested or influenced”, or areas controlled by the NPA, Bangsa Moro (MILF and MNLF), and the Abu Sayyaf Group.

Based on vintage-Vietnam US military doctrine, these counter-guerrilla strategies hew to the basic Clear-Hold-Consolidate-Develop formula, all of which consider and treat the majority of the civilian population as suspected sympathizers, if not actual members of the armed guerrilla groups. In other words, the people are the enemy. Thus, AFP and police counter-guerrilla doctrine include such “food and population control” measures as census-taking, curfew, rationing, hamletting, “no-man’s-land” zones, etc.; as well as civil-military operations such as holding mass meetings, forming “volunteer civilian organizations”, and forcible recruitment into the civilian paramilitary forces.

#### **85.26. The case of Basilan Province (June-September 2001)**

On July 2001, following the failure of the Armed Forces of the Philippines to solve the kidnapping incident in Lamitan Island by the Abu Sayaff Group on June 2001, the Arroyo government declared Basilan in a state of lawlessness. Through a memorandum from the Department of Justice, the Armed Forces of the Philippines (AFP) was ordered to arrest even without warrant all persons suspected of being Abu Sayyaf members and sympathizers.

Following this declaration there was heavy military deployment of up to 11 battalions under the command of the 103<sup>rd</sup> Infantry Brigade. The AFP formed Task Force Comet to pursue the Abu Sayaff. Task Force Comet consisted of Task Group Thunder headed by Col. Hermogenes Esperon based in Isabela, Task Group Lightning headed by Col. Pedro Ramboanga based in Tipo-Tio; and Task Group Tornado headed by Marine Col. Renato Miranda based in Maluso.

On 12 July 2001, elements of the 103<sup>rd</sup> Army Brigade had already been dispatched to different areas in Barangays Tabuk and Sunset, Isabela, Basilan, Province. When night fell, the troops positioned themselves in the pre-identified areas where suspected members and sympathizers of the ASG dwell. They cordoned the houses where their targets can be found.

Checkpoints peppered the one and only road that connects the six towns and one city of the province. From Isabela City to Sumisip town, a few kilometers apart, 16 checkpoints manned by military and paramilitary groups were set up.

By dawn of the following day i.e., 13 July 2001, while the local residents of the villages were still asleep, soldiers wearing masks to conceal their faces, conducted a saturation drive and barged into the houses of the residents and forced them to come out so the military could conduct searches on their houses. The males were herded in one place while informants with their faces masked, pointed out alleged ASG members and sympathizers, who were immediately arrested, hogtied and



blindfolded, and their houses subjected to search. Despite demands by the residents for search and arrest warrants, the soldiers did not show them any warrant.

Twenty-eight Isabela residents were arrested and brought to the 103<sup>rd</sup> Brigade Headquarters in Barangay Tabiawan, which is about four (4) kilometers away from Barangay Tabuk.

Inside the military camp, those arrested were subjected to tactical interrogation. Some were physically and mentally tortured to force them to admit complicity with the Abu Sayaf Group. They were mauled, slapped and beaten. Afterwards, they were made to sign a document saying that they were treated well and were not harmed.

Cases of kidnapping and Serious Illegal Detention were filed against the twenty-eight civilian residents.

On 22 August 2001 AFP launched an operation where several villages were bombarded in Sumisip town, causing the evacuation and displacement of entire communities.

By 23 September 2001, Philippine government's Department of Social Welfare and Development placed the number of Basilan residents affected by the military operations to 78, 736 individuals or 13, 421 families.

Brazen and extensive looting occurred in the abandoned houses of the residents. The displacement and the destruction and looting of their houses had caused the residents loss of their livelihood and untold suffering.

Forced evacuations had also resulted in the disruption of classes because schools were either occupied by the soldiers or used as evacuation centers, or the school buildings had been damaged by mortar shelling or aerial bombing during military operations. More or less 100 civilian residents were also illegally arrested.

Military operations had resulted also in extrajudicial killings. From June to August 2001, ten victims of extrajudicial killings were documented; all characterized by brutality as revealed by the perpetrators' mutilation of the remains, signs of heavy torture inflicted on the victims and arrogant and blatant manner of killing. Victims were identified as: (1) Roque Hamajin, 17 years old; (2) Jaang Pulaan, 50 years old; (3) Mr. Hamajin, husband of Jaang Pulahan who all died on July 11, 2001 during the military operation conducted by 32<sup>nd</sup> IBPA in Brgy. Pipil, Tipo-tipo, Basilan; (4) Ibno Mallaji, 27 years old was abducted and burned to death on September 7, 2001 by elements of Marines and CAGU; (5) Banadin Ujajon, 45 years old; (6) Abdua Ujajon, 17 years old; and (7) Abubakar Ujajon, 13 years old, was found dead a month after they were abducted by CAGUs in their farm on July 24, 2001; (8) Nuramum Asunum, 27 years old was arrested in a check point at Brgy. Colonia, Lamitan and killed the day after; (9) Hadji Ahmad Asan was killed by CAGUS and found dead on August 27, 2001 buried under a pile of coconut husks, his entire body was swollen from beating and his left foot was cut off; (10) Jasan Linungan, 22 years old was shot to death by elements of the military on June 10, 2001.

The rest of the illegally arrested victims were later transferred to Camp Bagong Diwa in Bicutan, Taguig, Metro Manila.

On March 14, 2005, around 7:30 a.m., about 10 prisoners planned a protest led by Alhamser Manatad Limbong, aka Commander Kosovo in Camp Bagong Diwa. A team composed of Gov. Hussin, Cong. Hataman, DILG Sec. Angelo Reyes and Gen. Avelino Razon was formed to negotiate with the group of Commander Kosovo. The protesting prisoners demanded from the negotiators a guarantee that they be not harmed should they give up their protest, a speedy trial of their cases, an investigation of the human rights violations committed against them and full media coverage while surrendering to the police. On March 15, 2005, at around 9:15 a.m., Sec. Reyes ordered the PNP-SAF (Special Action Force) to assault the SICA (Special Intensive Care Area) Building. The PNP-SAF indiscriminately fired at the SICA Building, resulting in the death of 24 inmates, 11 of whom were part of the Free 73 Basilan, and injured many inmates.

#### **85.27. Attacks on Progressive Party-List Organizations**

Bayan Muna is a national political party duly accredited by the Philippine Commission on Elections to participate in the Party List elections. Composed mainly of workers, farmers, professionals and other progressive sectors, Bayan Muna champions the cause of “New Politics, the “politics of change” in the Philippines. Campaigning for social reforms and firmly opposing foreign domination, feudal bondage and bureaucratic corruption, Bayan Muna won three seats in the House of Representatives in the 2001 elections, under the party list system.

Anakpawis, a Partylist party representing the interests of the toiling masses; Gabriela Women’s Party List party, representing the interests of the women sector; Suara Party representing the interests of the Bangsa Moro; Migrante Party List party, representing the migrant workers; and Anakbayan, representing the interests of the youth joined the 2004 elections. Bayan Muna won three seats, Anakpawis two seats, and Gabriela Women’s Party List party, one seat in the House of Representatives.

Together, they became known for championing the rights and welfare of the marginalized sectors of the country, i.e., workers, peasants, women, youth, fisherfolk, indigenous peoples, urban poor and other down-trodden by actively pushing urgent people’s concerns in the halls of the Philippine Congress. They also participate in the parliament of the streets, directly engaging in and supporting mass protest actions on a variety of issues.

Since Bayan Muna emerged victorious in the 2001 elections, its leaders and members have been the target of brazen attacks by government officials, notably by National Security Adviser Norberto Gonzales. Anakpawis, Gabriela WPL, and Suara have similarly been targets of killings, harassments and other human rights violations since 2004. The Arroyo regime has repeatedly branded these party list parties as “front” organizations of the Communist Party of the Philippines and as target for “neutralization” (in military parlance, physical elimination of the subjects).

Since 2001, one hundred and twenty-eight (128) members and

leaders of Bayan Muna have been summarily killed. Since 2004, thirty-two (32) Anakpawis, two (2) Suara, and one (1) Gabriela party list members and leaders were killed. A still undetermined but considerable number have survived assassination attempts, while fourteen (14) party list members and leaders have forcibly disappeared. Among the many illustrative cases of attacks and extra judicial killings committed against progressive party list groups are the following:

**85.27.a. The Extrajudicial Killing of Romy Sanchez, BM Ilocos Regional Coordinator**

On March 9, 2005 at around 4:30 p.m., Romy Sanchez, the Ilocos Regional Coordinator of Bayan Muna was in Baguio City with his companions to buy 2<sup>nd</sup> hand clothing materials when he was shot by unidentified men. His companions saw him already lying on the pavement with blood oozing from his wound. Sanchez died on the spot. Before his killing, he had been receiving death threats and was being implicated by the military in the murder of Fr. Conrado Balweg.

**85.27.b. The Extrajudicial Killing of Florante Collantes, BM Tarlac City Secretary General**

Florante Collantes was the Secretary General of Bayan Muna in Tarlac City. He was also a labor organizer at the Bataan Export Processing Zone.

On October 15, 2005 at around 11 am, unidentified men shot him in front of his home in Barangay Tuec, Camiling, Tarlac. According to witnesses, Collantes was attending to household chores when motorcycle riding men stopped in front of their house. Thinking that the men would buy cigarettes from their store, Collantes attended to them. But suddenly, one of the two men got off the motorcycle and shot Collantes killing him instantly. The victim's wife later described the assassin as a burly man wearing dark jacket.

According to her, three days before the incident, same man on board his motorcycle had stopped by the store and bought cigarettes. Prior to the incident, Collantes had been subjected to surveillance.

**85.27.c. The Extrajudicial Killing of Ricardo Uy, BM Sorsogon City Chairperson**

Ricardo Uy, a 57 year old businessman was the Chairperson of Bayan Muna in Sorsogon City Chapter. He was also a member of Sorsogon Independent Media Reporters Incorporated (SIMRI).

On November 18, 2005, while Uy was inside his rice mill, his helper heard five gunshots. The helper rushed to the rice mill and saw another man inside, described as tall with long hair wearing sunglasses and a hat. The helper saw that Uy sustained gunshot wounds. He also saw the gunman level a gun at him and tried to shoot him but the gun had no bullet anymore. The gunman casually walked and went back to his motorcycle parked near the rice mill.

Uy was an active human rights worker and had been a constant subject of verbal attacks by the military in their radio programs for being allegedly a supporter of a communist legal front organization.

#### **85.27.d.The Extrajudicial Killing of Alden Boy Ambida, BM – Eastern Samar Regional Coordinator**

Alden Boy Ambida is the regional coordinator of Bayan Muna-Eastern Samar and Vice-president of the Borongan Tricycle Drivers and Operators (BTDOA).

On April 9, 2005, at around 11 a.m., Ambida was driving his tricycle with passengers when he noticed two men with XLR motorcycle following him. When his passengers were getting off the tricycle, he again noticed from his motorcycle's mirror the two men approaching him. He then positioned his tricycle towards the direction of the approaching motorcycle; he saw the man on the motorcycle draw his gun with a silencer, aimed the gun at him and fired shots at him. He managed to jump out of the driver's seat. He sustained one gunshot wound on the chest and another on his side. Fortunately he survived the attack.

Prior to the incident, Ambida was warned by a family friend to be careful because military elements are after him.

#### **85.28. Attacks on Civil Liberties**

Since the 2004 elections, valid issues on Mrs. Arroyo's legitimacy as the duly elected President have been raised by a broad spectrum of political forces in Philippine society. These political forces include various multisectoral and sectoral organizations, the progressive party-list organizations and their representatives, opposition parties and leaders, churches and religious leaders, students, professionals, academicians and artists, business groups and retired military officers.

Furthermore, the Macapagal-Arroyo administration has continued to face serious threats of mutiny from restive military and police officers and men questioning the involvement of some of their seniors in election fraud in 2004 and rampant corruption in the military-police establishment. Most significantly, President Macapagal-Arroyo's tenuous leadership is being challenged by the 85 million Filipino people themselves, majority of whom according to poll surveys, want her to resign while a substantial number want her ousted from office.

Facing the prospect of a mounting call for her ouster after her hasty and dubious proclamation as President-elect, Macapagal-Arroyo clamped down on legitimate protest actions that threatened to snowball and reinvigorate the movement calling for her to step down from office. She launched a desperate political offensive through a series of repressive measures aimed at stifling dissent, suppressing all forms of legitimate protest activities and curtailing basic freedoms of speech and assembly.

President Macapagal-Arroyo resorted to repressive measures such as violent dispersal of protest rallies pursuant to the "calibrated pre-emptive response," "no permit, no rally policy," Executive Order 464, Presidential Proclamation 1017 and General Order No. 5, and a massive crackdown on her critics and political opponents, including media, the political opposition, civil society groups and particularly the progressive party list members of the House of Representatives and other progressive personalities.

#### **85.28.a. Violent Dispersal of Peaceful Assemblies and Mass Protest Actions**

On 13 July 2004, members of Bagong Alyansang Makabayan (BAYAN or New Patriotic Alliance) and Migrante International, an organization of overseas Filipino workers, held a rally at Plaza Miranda, Manila to demand the withdrawal of Filipino troops in Iraq to ensure the release of Mr. Angelo de la Cruz, a Filipino worker held captive by an Iraqi resistance group.

While the program was ongoing, the police used force to prevent a jeepney carrying demonstrators and a sound system from entering the plaza. In the process, the police elbowed BAYAN staffer Alberto Villamor in the face, hit him with a truncheon, handcuffed and hauled him off to the Western Police District substation near Plaza Miranda.

Shortly after, the police commanding officer P/Supt. Sapitula arbitrarily revoked the agreement between the police and the demonstrators that the rally could proceed until 7 pm, and ordered the protesters to disperse in fifteen minutes. The protesters promptly moved out of Plaza Miranda and regrouped on Quezon Avenue so that they could march to Liwasang Bonifacio. The police blocked them and, with absolutely no provocation, trained their powerful water hoses at the rallyists and charged at them, wildly swinging their truncheons and using their shields to shove the rallyists back.

Carol Araullo, Chairperson of BAYAN suffered a two-inch wound on the head and was bloodied when she was treacherously struck from behind by one SPO1 Levy Cardíño with his truncheon. Other policemen, many of them in plainclothes, conducted arrests with excessive force. They seized Renato Reyes, General Secretary of BAYAN; Glyziel Gotiangco, General Secretary of the National Union of the Students in the Philippines; and Edgar Faldas. Faldas, was bashed with truncheons, punched and slapped by the police while he was being dragged the police car.

Gotianco and Villamor were brought to Police Station 3 in Sta. Cruz, Manila where they were joined by Reyes and Faldas. They were all taken to the Jose Medical Reyes but the diagnoses did not reflect their injuries. At no time during their arrest and detention were they ever informed of their rights under custodial investigation.

P/Supt. Sapitula ordered the filing of charges of Direct Assault, Violation of BP 880, Violation of Section 1119 of the Revised Ordinance (RO) of the City of Manila and Resisting Arrest against Araullo, Faldas, Reyes, Villamor and Gotianco. In a Resolution dated 18 August 2004, the Assistant City Prosecutor for Manila, Ms. Lolita Rodas, dismissed the cases filed against them on the ground that the allegations of the police constitute no probable cause.

#### **85.28.b. Calibrated Pre-emptive Response**

On September 21, 2005, in the wake of the defeat of impeachment moves and a looming upsurge of mass demonstrations calling for Mrs. Arroyo's resignation or removal from office, the Arroyo administration through Executive Secretary Eduardo Ermita declared the enforcement of the "calibrated preemptive response" rule in lieu of maximum tolerance.

The Philippine National Police (PNP) was then also instructed to strictly implement the “no permit, no rally” policy provided for by Batas Pambansa Blg. 880. Following this declaration, violent dispersals of even the most benign protest actions became the order of the day. The vicinity around the presidential palace was declared a “no rally zone” to include historic Mendiola Bridge, the traditional venue for airing grievances against the government.

The calibrated pre-emptive response rule was immediately challenged and defied by various groups and on October 4, 2005, the “Walk for Democracy” in defense of civil liberties and in defiance of the CPR was held under the auspices of the Movement of Concerned Citizens for Civil Liberties (MCCCL). The police violently dispersed the peaceful assembly and arrested and charged some of the participants.

On October 6, 2005, the multisectoral alliance BAYAN and the Gloria Step Down Movement, an informal alliance of different organizations calling for the resignation of President Gloria Macapagal Arroyo led a protest rally in the City of Manila to denounce the rising number of extrajudicial killings and to reiterate their demand for Mrs. Arroyo to step down following the electoral fraud scandal and other corruption cases.

More or less one hundred elements of Western Police District (WPD) - Philippine National Police in full battle gear led by C/Supt. Pedro Bulaong arrived. Majority of the policemen were not wearing nameplates. As the group started to line up for the march, the leaders presented the Endorsement from the office of the Mayor to the ground commander Supt. Bernard Diaz.

Without any warning, one WPD official commanded his men to disperse the protest action. The demonstrators were then violently pushed back with the use of metal shields and were thus forcibly dispersed. Several protesters were hurt and illegally arrested. Criminal charges were filed against the policemen with the Office of the Ombudsman but the office is yet to act on their complaint.

On October 14, 2005, a religious procession led by three Catholic bishops and former Vice-President Teofisto Guingona, Jr. was dispersed using water cannons as they approached Mendiola.

Even the freedom of belief and religion was trampled upon when the Presidential Security Guard (PSG) refused entry to four priests and a handful of church-goers attending a “Mass for the Victims of Hacienda Luisita Massacre and Political Killings” at the San Miguel Church near Malacanang Palace on November 15, 2005.

In a decision promulgated on April 25, 2006, the Supreme Court declared as unconstitutional the calibrated preemptive response (CPR) policy of the Arroyo Administration.

#### **85.28.c. Executive Order 464**

In order to prevent the Senate and the House of Representatives from unearthing the truth about anomalous government contracts, the fertilizer fund scam, the Hello Garci tapes (a tape of a tapped conversation evidently between Macapagal-Arroyo and a member of the

Commission on Elections, where the former sought and got assurance from the latter that she can be made to appear the winner in Mindanao by a million votes) , electoral fraud and other scandals involving the presidency, Mrs Arroyo issued Executive Order 464 on September 26, 2005, requiring all heads of departments of the executive branch, all senior officials of the executive departments, all generals, flag officers and “such other officers in the judgment of the Chief of Staff” of the Armed Forces of the Philippines, officers of the Philippine National Police with the rank of chief superintendent or higher and “such other officers in the judgment of the Chief of the PNP,” senior national security officials “in the judgment of the National Security Adviser,” and “such other officers as may be determined by the President” to secure the President’s prior consent before appearing before the Senate or the House of Representatives.

The Executive Order is practically a gag order on government employees or officials and a violation of the people’s right to information. It renders inutile the oversight functions of Congress and destroys the system of checks and balances between the legislative and executive branches of government.

#### **85.28.d. Proclamation No. 1017**

On February 24, 2006, Gloria Macapagal-Arroyo declared a state of national emergency pursuant to Proclamation No. 1017. She cited a *“tactical alliance” and “concerted and systematic conspiracy” between elements in the political opposition, “authoritarians of the extreme left, represented by the NDF-CPP-NPA, and the extreme right, represented by military adventurists.”* After making the finding of the alleged conspiracy and the additional finding that their *“consequences, ramifications and collateral effects constitute a clear and present danger to the safety and integrity of the Philippine State and of the Filipino people”*, Mrs. Arroyo as President and Commander-in-Chief of the Armed Forces of the Philippines (AFP) ordered the AFP *“to maintain law and order throughout the Philippines, prevent or suppress all forms of lawless violence as well as any act of insurrection or rebellion and to enforce obedience to all the laws and to all decrees, orders and regulations promulgated by me personally or upon my direction...”*

On the same date, Mrs. Arroyo also issued General Order No. 5 reiterating the provisions of Proclamation No. 1017 but adding the phrase “terrorism” and directing the Philippine National Police, in addition to the AFP, *“to immediately carry out the necessary and appropriate actions to suppress and prevent acts of terrorism and lawless violence.”*

On February 25, 2006, Anakpawis Representative Crispin Beltran was arrested in Del Monte City, Bulacan by an armed team of PNP-Criminal and Investigation Group (CIDG) operatives led by a certain Police Chief Inspector Rino Corpuz. The arrest was made without a warrant of arrest in violation of his constitutional rights, and while the Congress was in regular session in contravention of his parliamentary immunity. He was later charged with inciting to sedition and rebellion and was held under custody of the PNP for more than a year.

Similarly, Bayan Muna Party-List Representative Joel Virador was illegally arrested while at the PAL Ticketing Office along Roxas St. in Davao City on February 27, 2006.

Aware that they would be subjected to a similar illegal arrest and arbitrary detention as their colleague Crispin Beltran, Bayan Muna Party-list Representatives Saturnino Ocampo and Teodoro Casiño, Gabriela Party-list Representative Liza Maza and Anakpawis Representative Rafael Mariano sought the protective custody of the House of Representatives in the evening of February 27, 2006.

They were later joined by Rep. Joel Virador, who was allowed to leave police custody to join his colleagues. Such protective custody was granted by the House of Representatives. They remained in the custody of the House until they were able to leave the Batasan Complex on May 8, 2006 without being arrested.

Rebellion charges were filed against the progressive party-list representatives, which were ordered dismissed by the Supreme Court in 01 June 2007 for lack of probable cause. The Supreme Court also sternly reminded the prosecutors to never allow their office to be prostituted for political purposes.

Copies of the articles regarding the disappearance of Jonas Burgos, Sherlyn Cadapan, Karen Empeneo, Manuel Merino, Raymond and Reynaldo Manalo are attached as **Annexes O, P and Q**.

### ***III. Bribery***

86. Bribery must be understood according to its meaning under Article 210 of the Revised Penal Code.<sup>28</sup>

87. Article 210 of the Revised Penal Code provides:

*Direct bribery.* — Any public officer who shall agree to perform an act constituting a crime, in connection with the performance of this official duties, in consideration of any offer, promise, gift or present received by such officer, personally or through the mediation of another, shall suffer the penalty of prision mayor in its medium and maximum periods and a fine [of not less than the value of the gift and] not less than three times the value of the gift in addition to the penalty corresponding to the crime agreed upon, if the same shall have been committed.

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<sup>28</sup> Bernas, p. 1112.



`If the gift was accepted by the officer in consideration of the execution of an act which does not constitute a crime, and the officer executed said act, he shall suffer the same penalty provided in the preceding paragraph; and if said act shall not have been accomplished, the officer shall suffer the penalties of prision correccional, in its medium period and a fine of not less than twice the value of such gift.

If the object for which the gift was received or promised was to make the public officer refrain from doing something which it was his official duty to do, he shall suffer the penalties of prision correccional in its maximum period and a fine [of not less than the value of the gift and] not less than three times the value of such gift.

In addition to the penalties provided in the preceding paragraphs, the culprit shall suffer the penalty of special temporary disqualification.

The provisions contained in the preceding paragraphs shall be made applicable to assessors, arbitrators, appraisal and claim commissioners, experts or any other persons performing public duties.

88. The elements of the crime of direct bribery are as follows:

- a) the offender is a public officer;
- b) the offender accepts an offer or promise or receives a gift or present by himself or through another;
- c) such offer or promise be accepted, or gift or present received by the public officer—
  - with a view to committing some crime; or
  - in consideration of the execution of an act which does not constitute a crime, but the act must unjust; or
  - to refrain from doing something which it is his official duty to do.
- d) the act which the offender agrees to perform or which he executes be connected with the performance of his official duties.

*Respondent's involvement in the ZTE-NBN Deal constitutes bribery.*

89. Respondent's involvement in the ZTE-NBN Deal is glaring. Her husband, First Gentleman Mike Arroyo, had a hand in the consummation of the deal.

90. Complainant Joey de Venecia exposed the questionable maneuverings surrounding the ZTE-NBN Deal. Amsterdam Holdings, Inc. ("AHI"), of which complainant is part, submitted a more economical proposal than that of ZTE to the national broadband project, and further proposed to undertake the same without any guaranty from the national government, under a Build-Own-and-Operate scheme under Republic Act No. 9184. This was in contrast to the proposition of ZTE, under which the government itself was to fund the project under a loan agreement with the Chinese government. Notwithstanding that AHI proposed to accomplish the project at a much lesser cost than ZTE, and without any cost to the government, its bid was ignored by the government.

91. In a sworn statement dated September 10, 2007, Joey De Venecia stated that in several occasions, former COMELEC Chairman Benjamin Abalos met with him to convince him to drop the proposed bid of the consortium of which he is a part of.

A copy of the sworn statement of Mr. Jose De Venecia III is attached as **Annex R**.

92. In one of those meetings, wherein the officials of the ZTE were also present, Mr. Abalos demanded from the latter the money promised him. He claimed that the “President and the Speaker [Jose De Venecia, Jr.]” were waiting for it. Joey De Venecia took exception to this as he was certain that his father, former Speaker De Venecia did not know about the details and absurdities of the project.

93. Due to this exposé, the Senate conducted an inquiry in aid of legislation. A number of resource persons were asked to attend, including Joey De Venecia, who affirmed his statements in his affidavit dated September 10, 2007, and further stated that the husband of the President likewise played a role in the NBN project.

94. According to Joey De Venecia, the first gentleman was also present in one of his meetings with Chairman Abalos. In that meeting, the first gentleman bullied complainant into pulling off his proposal to the national broadband project—the first gentleman menacingly told him to “BACK OFF” while pointing his middle finger at him, barely two inches away from his face.

95. Further confirming the participation and knowledge of respondent in the bribery surrounding the NBN-ZTE deal was the testimony of then-NEDA Secretary Romulo Neri, given during the Senate inquiry into the anomalous transaction.

96. Secretary Neri publicly admitted under oath to having been offered by COMELEC Chairman Abalos the amount of Two Hundred Million Pesos, for him to facilitate the approval of the NBN-ZTE deal. In the words of Chairman Abalos to Secretary Neri: “*Sec, may two hundred ka dito.*”

97. Upon further questioning, Secretary Neri admitted that he had reported the offer of Chairman Abalos to respondent. Thereafter, the Senate inquiry came to an abrupt end, as Secretary Neri refused to divulge more details, as to how respondent reacted to his report of bribery.

98. Secretary Neri refused to speak further, took his case to the Supreme Court, invoking executive privilege. The Supreme Court eventually upheld Secretary Neri’s claim of executive privilege.

99. While the public will never know how respondent actually reacted to Secretary Neri’s report, what is clear and indubitable is the fact that she was fully aware of the bribery attempt upon Secretary Neri by Chairman Abalos, and this knowledge notwithstanding, no disciplinary action was taken by her to remedy the same.

100. From the foregoing, all the elements of the crime of direct bribery, through the second mode—i.e., where the gift is received in

consideration of an act which does not constitute a crime—are present, to wit:

- a) Respondent is the President of the Republic of the Philippines;
- b) Respondent accepted the promise of bribe money from ZTE officials, as Chairman Abalos told the ZTE officials that the President is waiting for the money promised to them;
- c) Respondent accepted promise of bribe money so that the ZTE-NBN deal, which is clearly overpriced, will push through;
- d) The approval of the ZTE-NBN deal is connected to the performance of her official duties since she was the approving authority to the contract.

*Respondent committed bribery when she authorized the distribution of money to members of Congress in exchange for the hasty referral of the Pulido Impeachment Complaint to prevent the filing of a more genuine impeachment complaint.*

101. In the morning of 5 October 2007, the day the impeachment complaint of Robert Pulido was filed, respondent, through her agent, Atty. Francis Ver, approached and offered former Rep. Crispin Beltran of the ANAKPAWIS party list, bribe money in the amount of One Million Pesos (P 1,000,000) for the purpose of endorsing a yet to be filed impeachment

complaint. The endorsement of Rep. Beltran would supposedly add “legitimacy” to the Pulido complaint.<sup>29</sup>

102. Later that day, Rep. Beltran learned that an impeachment complaint was filed by Atty. Pulido and duly endorsed by an administration ally, Congressman Edgardo San Luis. The bribe offer by respondent and her agent on an opposition congressman and to Reps. Rufus Rodriguez and Dan Fernandez was a brazen attempt to give a semblance of credibility to a 3-page impeachment complaint and to prevent a more substantive impeachment complaint from being filed. Respondent’s actions are clearly blatant violations of the provisions of the Revised Penal Code on bribery.<sup>30</sup>

Copies of the newspaper articles attesting to the above facts are attached as **Annexes S, T and U**.

103. On 11 October 2007, respondent, through her agents, called a meeting in Malacanang Palace with 190 Congressmen and sought to influence the solons to dismiss the so-called Pulido impeachment complaint by bribing them amounts of either Two Hundred Thousand Pesos (₱ 200,000) or Five Hundred Thousand Pesos (₱ 500,000) as disclosed by Cebu City Congressman Antonio Cuenco who admitted receiving a “Christmas gift”. This statement was further supported by admissions made by the

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<sup>29</sup> <http://www.gmanews.tv/story/63648/2-solons-affirm-P2-M-bribe-try-by-Arroyo-ally-on-impeach-bid>, last viewed on 10 October 2008.

<sup>30</sup> Ibid.; <http://www.gmanews.tv/story/63736/Kampi-exec-offered-P2-M-bribe-to-sign-impeach-case---Beltran>, last viewed on 10 October 2008.

Liberal Party that 14 of its members received amounts of P500,000 from respondent. As a matter of fact, an ANC video footage showed several congressmen leaving the Palace, each carrying gift bags containing bribe money.

104. Not content with bribing approximately 190 Congressmen to support the “dumping” of the impeachment complaint, respondent held another meeting in Malacanang Palace with officials of the Union of Local Authorities of the Philippines (ULAP) wherein she sought the former’s assistance in supporting moves to dismiss the impeachment complaint. This is evidenced by the fact that ULAP Secretary General, Gov. Ben Evardone, admitted that the meeting discussed the impeachment complaint and the agreement that it should be thrown out. The meeting ended with several governors receiving bribe money of Five Hundred Thousand Pesos (P500,000) as evidenced by the admissions of Pampanga Gov. Eddie Panlilio and Bulacan Governor Joselito Mendoza.<sup>31</sup>

A copy of the news article entitled “2 governors: Yes, we received money”, is attached as **Annex V**.

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<sup>31</sup> [http://newsinfo.inquirer.net/breakingnews/nation/view\\_article.php?article\\_id=94424](http://newsinfo.inquirer.net/breakingnews/nation/view_article.php?article_id=94424)

#### ***IV. Graft and Corruption***

105. Graft and corruption, as a ground for impeachment, is to be understood within the context of its definition under Republic Act No. 3019 otherwise known as the Anti-Graft and Corrupt Practices Act.

*Respondent, by approving the overpriced Northrail Project, violated Section 3 (g) of RA 3019.*

106. By giving the Northrail project to the Export-Import Bank of China, respondent not only committed culpable violation of the Constitution, but also violated Section 3 (g) of RA 3019, which provides:

(g) Entering, on behalf of the government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby.

107. The said project is manifestly and grossly disadvantageous to the government for the following reasons:

- a) It is grossly overpriced;<sup>32</sup>
- b) It is based on a grossly inflated estimate of the project cost in the amount of US\$ 503,000,000, for a 32.2 kilometer length of rail line, or an average of nearly US\$ 16 million (P900 million) per kilometre, exclusive of the costs for clearing, relocation, and resettlement of informal dwellers occupying the railroad Right of Way;

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<sup>32</sup> Please see paragraph 50 of this Complaint.



c) It provides for an interest rate of three percent (3%) per annum on the amount of the loan, which is much higher than the rate on other loan packages the Republic of the Philippines could have availed of;

d) It provides that the Agreement will be governed by and construed in accordance with the laws of the People's Republic of China, and that any suit, legal action or proceeding arising from the agreement may be brought before the courts of that country, without prejudice to the Export-Import Bank of China commencing any action, at its option, against the Republic of the Philippines or its property in any other jurisdiction. Such one-sided concession unduly favors the Export-Import Bank of China and is extremely onerous to the Republic of the Philippines.

e) Article 5 of the agreement provides that control over the proceeds of the loan is not placed with the Republic of the Philippines but is retained by the Export-Import Bank of China. This prevents the funds from becoming part of the National Treasury in contravention of the Constitution and applicable laws.

*Respondent, through her involvement  
in the Hello Garci Scandal, violated  
Section 3 (a) of RA 3019.*

108. By being involved in the "Hello Garci" scandal, respondent did not only betray the public trust but also committed graft and corruption.

109. Section 3 (a) of RA 3019 provides:

Persuading, inducing or influencing another public officer to perform an act constituting a violation of the rules and regulations duly promulgated by competent authority or an

offense in connection with the official duties of the latter, or allowing himself to be persuaded, induced, or influenced to commit such violation or offense.

110. Respondent's act of calling COMELEC Commissioner Garcillano during the election where she herself was candidate for President constitutes "persuading, inducing, or influencing another public officer to perform an act constituting a violation of the rules and regulations duly promulgated by competent authority or an offense in connection with the official duties of the latter."

111. While respondent would claim in her defense that there was no direct command from her in the course of their conversations for Garcillano to rig the results of the election, the fact that she repeatedly called the latter to inquire whether she was leading by itself constitutes a violation of the quoted provision of the Anti-graft and Corrupt Practices Act. By calling a COMELEC Commissioner, who was also her appointee, respondent sought to influence the election results so she can remain as the highest official in the land and hold on to her power.

112. Whether the call from respondent influenced Commissioner Garcillano, the fact still remains that he **publicly and categorically admitted** talking to respondent—a highly irregular act which implies that Garcillano and respondent committed electoral fraud.<sup>33</sup>

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<sup>33</sup> <http://www.pinoyexchange.com/forums/archive/index.php/t-237223.html> (last viewed on October 10, 2008)

*Respondent, by profiting from the Fertilizer Scam, violated Section 3 (b) of RA 3019.*

113. When respondent ran for President in the 2004 elections, her biggest donor was the Filipino taxpayer.

114. In 2004, through respondent's Ginintuang Masaganang Ani or GMA Program, billions of pesos of public funds were released from the Department of Agriculture (DA) on the pretext of improving the country's rice production and improving the agriculture sector of the nation. Such program, however, turned out to be a facade to mask a massive scheme of corruption and bribery with the sole purpose of financing respondent's presidential bid.

115. Since the start of 2004, the Commission on Audit (COA) has been on the money-trail of the GMA Project, and what they had so far discovered on that time was shocking. What the Ombudsman and the COA have so far discovered is that at least P120 million found its way to 15 obscure or nonexistent private foundations that had nothing to do with agriculture, but were apparently used as conduits for campaign funds. The investigators still have not traced where hundreds of millions more in DA funds ended up, but these too, they say, were likely diverted to the Arroyo campaign.

A copy of the article “Billions in Farm Funds Used for Arroyo Campaign” is attached as **Annex W**.<sup>34</sup>

116. COA auditors were initially baffled by the manner in which the money, disbursed beginning in February 2004, just a week before the start of the 90-day presidential campaign, up to early May, flowed from the national coffers to the DA's regional and local offices and then to the foundations.

117. Respondent's GMA Program involved several components that would supposedly finance the rehabilitation of the agriculture industry from rice and corn production, livestock and seed program, and the distribution of farm implements.

118. One of these components was the P728 million released on February 3, 2004, supposedly for the agricultural projects of congressional districts, towns and provinces. Another component of the GMA Project is the P1.1 billion, released on February 11, 2004 supposedly for "maintenance and operating expenses. These funds, however, never got to their intended beneficiaries nor were spent for their intended purposes.

119. According to former solicitor general Frank Chavez, both of the above funds went to legislators, governors and mayors to support

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<sup>34</sup> See Article entitled “Billions in Farm Funds Used for Arroyo Campaign” by Luz Rimban dated 28 September 2005, with additional reporting by Cheche Lazaro, Booma Cruz, Yvonne Chua, Vinia Datinguino, Avigail Olarte, Alecks Pabico and BR Guiruela, appearing in <http://www.pcij.org/blog/?p=689>. Last viewed on 25 September 2008.

respondent's presidential election. Chavez said these funds were "in reality, an infusion into the political kitty" of respondent. Chavez likewise alleges that the president committed plunder when she used government funds for her campaign. The former solicitor general also revealed that the P728 million was disbursed to 105 congressmen, 53 governors, and 23 city and municipal mayors. He showed a list obtained from the Department of Budget and Management (DBM) attesting to the releases. He also revealed that some of these recipients received actual cash and not farm inputs, in violation of prescribed Department of Agriculture rules.<sup>35</sup>

120. The COA findings likewise revealed that part of the agriculture funds went to questionable foundations. In the Metro Manila and Southern Tagalog region, COA auditors traced the funds to groups like the Gabaymasa Development Foundation, Magsasaka Foundation and Aaron Foundation. Records of the Securities and Exchange Commission, however, show Gabaymasa's purpose is "to undertake integrated rehabilitation and restoration activities in areas affected by natural and man-made calamities." Yet the DA issued to the foundation checks worth P23.1 million, supposedly to purchase farm inputs in Quezon, Marinduque, Oriental and Occidental Mindoro, Palawan and Paranaque. Aaron Foundation, on the other hand, is listed in the SEC as engaging in livelihood projects and daycare centers for street children. It received P5.2 million, supposedly for agriculture projects in Batangas and Palawan. The SEC has no record of a Magsasaka

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<sup>35</sup> Ibid.

Foundation but it is listed as the recipient of P6.5 million for farm projects in Palawan.

121. In the Visayas and Mindanao, the agriculture funds went to various foundations, among them *Ikaw at Ako Foundation* (P13 million for projects in Bohol, Biliran and Agusan del Norte), Philippine Social Development Foundation (P31 million for projects in Agusan del Sur and del Norte and Surigao del Norte), Matatag na Republika Cooperative P3.2 million for Biliran) and People's Organization for Progress and Development, Inc. (P5.2 million for Agusan del Sur and Surigao del Sur).

122. What is more amusing is the fact that there are virtually no farms in Las Piñas, Parañaque, Quezon City and certainly not in Makati City. Yet these overbuilt and densely-populated cities were among at least 100 congressional districts that, according to the Department of Agriculture (DA), needed P1.8 billion in farm inputs and implements in February 2004, just when the presidential campaign was kicking off.

123. And who were the supposed fertilizer suppliers?

124. In spite of the size of the program, no major fertilizer suppliers appeared to have participated in the program. The Fertilizer Industry Association of the Philippines (FIAP), which has 17 member-companies and a market share of 95%, testified that none of its members participated in the DA's fertilizer program.

125. Instead, AKAME Marketing, Castle Rock Construction, and FESHAN Philippines, Inc. were identified as the suppliers of the fertilizer. Two of the companies could not be traced and one has no prior track record of dealing in fertilizers. The company Feshan, for instance, is originally a medical supplier and started to supply fertilizers only in 2004.

126. In all these activities, one name stands out. Jocelyn “Jocjoc” Bolante.

127. Crucial to the “success” of the GMA project was the role of Bolante, a close friend of First Gentleman Mike Arroyo, and his fellow Makati Rotarian. Bolante was named DA undersecretary for finance and administration shortly after Arroyo took over the presidency from Joseph Estrada in 2001. He was in fact the first Arroyo appointee to the department and was already put in charge even before the agriculture secretary, Leonardo Montemayor, was named.

128. Bolante's power over the agriculture department was widely known. In 2004, just before the start of the campaign, it was Bolante, and not then Agriculture Secretary Luis Lorenzo, who sent letters to various congressmen and local officials informing them of the availability of funds under the DA's GMA Project. In such letter, Bolante directed these officials to coordinate with his office "to discuss all the requirements to facilitate the said project fund." Bolante's letter is dated February 3, 2004, the same day

that the Special Allotment Release Order or SARO for the fund was made available by the budget department.

129. Former DA Undersecretary Ibarra Poliquit admitted that Bolante had a hand in determining how the GMA Project funds were spent. He said former DA chief Luis Lorenzo "authorized Bolante to decide on the realignment of funds." Although the DA has a list of officials whose "proposed projects" were to be funded by the GMA Fund, Bolante was given the authority to drop them and replace them with others.<sup>36</sup>

130. As senate hearings were conducted to investigate the Fertilizer scam, subpoenas were issued to Bolante to speak as the sole resource person. Bolante, however, snubbed the invitations, and at the height of the senate investigations and public clamour on the matter, was allowed by respondent to leave the country on the pretext of seeking asylum for prosecution. Fortunately, the Senate was able to request for the cancellation of Bolante's visa which made possible the arrest of the latter by US Immigration officials in Los Angeles in July of 2006.

131. Still, no charges were filed against Bolante by the Ombudsman's Merceditas Gutierrez, a presidential appointee and classmate of First Gentleman Mike Arroyo. When the filing of plunder or charges against Bolante would have been enough to cause his return to the country

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<sup>36</sup> Ibid.



through deportation, respondent, through the Ombudsman, merely slept on the case and was even asserting that if ever Bolante would return, it would be as a free man. In conjunction with the deliberate efforts of the Ombudsman to put the fertilizer scam down the drain, Department of Justice Secretary was quoted as saying that since no charges were filed against Bolante, he would eventually return to the Philippines a free man.<sup>37</sup> Secretary Gonzales even emphasized that the Philippines has no right to request for the return of Bolante.<sup>38</sup>

A copy of the article “Gonzalez: RP has no authority to ask for Bolante back” is attached as **Annex X**.

132. Despite Bolante’s absence, Senate hearings for the fertilizer scam continued and eventually, the Senate issued Senate Committee Report No. 54<sup>39</sup> finding respondent to have used the funds from her GMA project to “secure” her victory in the 2004 presidential elections.<sup>40</sup>

A copy of Senate Committee Report No, 54 is attached as **Annex Y**.

133. Respondent, by awarding the contract for the Ginintuang Masaganang Ani program to questionable fertilizer companies and in turn

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<sup>37</sup> Article entitled “Gonzalez: RP has no authority to ask for Bolante back” dated 5 July 2008 as appearing in [www.inquirer.net](http://www.inquirer.net). Last viewed on 25 September 2008.

<sup>38</sup> Ibid.

<sup>39</sup> Dated 8 March 2006.

<sup>40</sup> Blog posted by Avigail Olarte | March 2, 2006 at 1:12 pm in the <http://www.pcij.org/blog/?p=689>. Last viewed on 26 September 2008.

using the funds for the program for her 2004 Presidential campaign, violated

Section 3 (b) of RA 3019, which provides:

(b) Directly or indirectly, requesting or receiving any gift, present, share, percentage or benefit, for himself or any other person, in connection with any contract or transaction between the Government and any other party, wherein the public officer in his official capacity has to intervene under the law.

134. Respondent, in her almost seven years as President of the Philippines, had sanctioned, approved and entered into anomalous contracts and illegal transactions. She had betrayed public trust, committed culpable violation of the Constitution, committed bribery and committed several violations of Republic Act 3019.

*Respondent, by allowing, encouraging, abetting, or otherwise acquiescing to the illegal and improper use of at least P5 billion in loans obtained by the Rural Credit Guarantee Corporation (Quedancor) to fund her administration's 2004 electoral campaign and furthering political patronage, violated Section 3 (E) and (G) of RA 3019.*

135. In fact, respondent had a direct hand in the anomaly surrounding the loans obtained by Quedancor, considering that she herself placed the program under the Office of the President during the elections in 2004, and that it was at this time when what is now known as the “swine scam” happened. Reports say that at least P600 million of the multibillion-

peso missing funds from the government's swine program funded the senatorial bids of seven administration bets in 2007.

A copy of the article regarding the circumstances surrounding Quedancor is attached as **Annex Z**.

136. During the May 2004 elections, the Respondent issued Executive Order No. 322, which ordered the transfer of Quedancor to the Office of the President. At around that time, Quedancor obtained a P5-billion syndicated loan from Equitable PCIBank and Land Bank of the Philippines, although it only needed at most a fifth of the money it borrowed.

137. It is undeniable that the swine program was meant to fail as funds disbursed for the project had no guarantee of payment. Quedancor also presented “bloated figures” of its operations, including an “unachievable” repayment fee, in order to get the loan, despite being offered better terms by the two banks.

138. The scheme was designed for the disbursement of money without any intention of payment. The four companies that cornered the Quedancor swine deal did so without any bidding and did not have enough capital. For this she is directly liable.

139. The Quedancor board and management settled for the P5-billion loan when they had earlier gotten better offers separately from Equitable PCIBank and Land Bank, which it ignored or changed. The terms were so disadvantageous that Quedancor got less than half of P5 billion. As such, Quedancor did not get the entire P5 billion of the loans that it entered into. The banks required Quedancor to deposit with Land Bank an initial P130 million—the interest for the quarter—or a “holdout on cash deposit” as security for the interest.

140. The banks likewise required Quedancor to invest in zero-coupon bonds worth P2.718 billion, or more than half the loan, to ensure that the P5 billion principal would be fully paid after seven years. This means only P2.017 billion would actually be released to Quedancor. Zero-coupon bonds are bought at a price lower than their face value. The face value is repaid when the bonds mature.

141. Quedancor had also suddenly expanded operations under the Arroyo administration, creating regional, district and extension offices. Mass hiring caused the Quedancor bureaucracy to swell from 520 in 2001 to 1,721 in 2004.

142. Commission on Audit’s reports show that Quedancor only needed from P491 million to P946 million, to cover its shortfall; Its board, despite knowing how little it needed, in fact initially issued Resolution 125 on Feb. 3, 2004 limiting the corporation’s direct borrowings to P1.5 billion.

But only a month later, it issued yet another resolution—Resolution 194—that raised the ceiling ceiling to P10 billion “at any given time” to be borrowed from the banks listed in Resolution 125 and “other banks/financial institutions willing to negotiate with Quedancor.”

143. This resolution allowed Quedancor to not only enter into the P5-billion loan agreement, but also to borrow more from Land Bank and transact with Equitable PCIBank (now merged with Banco de Oro).

144. Of the P1.725 billion listed as having been released when 2004 ended, close to P250 million went to no- or low-interest activities, including Quedancor’s operating expenses of P21.4 million.

145. On March 19, 2004, two months before the presidential elections, Quedancor revised the QSP guidelines to allow corporations, partnerships, cooperatives, federations, political organizations and nongovernment organizations to borrow cash, even without presenting any hard collateral. All they had to do was submit postdated checks. Loans need not pass through the Quedancor central office; even regional assistant vice presidents could approve them.

146. Quedancor also made payments in advance, in violation of procurement guidelines, which assume that a company doing business with the government has the financial capability to supply a project and therefore does not need advance payment to do so.

147. Moreover, this was in violation of the Government Procurement Act or Republic Act 9184, which requires strict accreditation of suppliers, public bidding of contracts, proper documentation and monitoring of disbursements and other measures to safeguard public money from graft and corruption.

148. Quedancor management justified its failure to follow the law by insisting that the QSP is not covered by the same government procurement rules. They claim that swine inputs never pass through Quedancor, but are exchanged between the input supplier and borrower so that no procurement actually happens.

149. Questionable suppliers like BIRKS also managed to get into the program, even if the DA's Bureau of Animal Industry already had a list of accredited input suppliers.

150. Considering that the Quedancor was under the Office of the President at the time that the swine program was implemented, it was under the direct control of the Respondent. She has the burden of accounting for the funds, amounting to P5 Billion that were spent on the program.<sup>41</sup>

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<sup>41</sup>This account is based for the most part on investigative reports made by Verafiles.org. See "*Quedancor swine program another fertilizerscam*," at <http://verafiles.org/index.php/focus/116-politicians-dip-hands-into-quedancor-funds>, and <http://verafiles.org/index.php/focus/114-quedancor-swine-program-another-fertilizer-scam>, last visited October 10, 2008.

151. Considering all the foregoing, a question comes to mind—is respondent the kind of President that the Filipino people needs and deserves? The answer is a resounding NO. Respondent, through her aforementioned acts, failed to faithfully and conscientiously fulfill her duties as President of the Philippines. This Honorable House of Representatives is duty-bound to fulfill its constitutional duty of causing her impeachment, and subsequently referring the complaint against her for trial before the Senate of the Philippines.

Relief

WHEREFORE, pursuant to the procedure laid down by Section 3, Article XI of the Constitution on Accountability of Public Officers, complainants respectfully pray that the present complaint be included in the House of Representatives' Order of Business within ten (10) session days, and referred to the Committee on Justice within three (3) session days thereafter to determine the sufficiency of the form and substance of the present petition.

Thereafter, after due proceedings, complainants pray that the present complaint be given due course, and for the Committee on Justice to submit a Report to the House recommending the adoption of the present complaint as the Articles of Impeachment against President Gloria Macapagal-Arroyo or adopting its own Resolution of Impeachment.

Thereafter, complainants pray that the Articles of Impeachment or Resolution of Impeachment be acted favorably by the House of Representatives through the affirmative vote of one-third of its members, and said Articles of Impeachment transmitted to the Senate for trial.

Complainants pray for other just or equitable relief.

Makati City for Quezon City, 11 October 2008.

*For Complainant Jose De Venecia III*

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