

**STATEMENT TO THE HEARING OF THE  
SUBCOMMITTEE FOR EAST ASIAN AND PACIFIC AFFAIRS,  
SENATE FOREIGN RELATIONS COMMITTEE OF THE 110<sup>TH</sup> US CONGRESS**

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**To the distinguished Senators of the Subcommittee:**

First, let me express my sincerest gratitude to Senator Barbara Boxer and the members of the Subcommittee for East Asian and Pacific Affairs of the Senate Foreign Relations Committee, for conducting this hearing on the events happening in the Philippines. The rest of the members of our delegation share the same sentiment.

I am Marie Hilao-Enriquez, secretary general of the human rights group in the Philippines, called KARAPATAN. My organization has been documenting cases of human rights violations in the country since 1995. Let me also say that I am one of the martial law survivors and my parents as well as one of my sisters are among the named lead plaintiffs in the historic class action suit against Marcos that we filed in the US Federal Court system in 1986. In 1992, the class action suit won for the Filipino martial law victims a landmark ruling holding Marcos guilty of crimes against humanity.

I have come before you, after several trips here in the United States and other countries, in an effort to inform the Filipinos abroad as well as citizens of the countries I visited of the alarming human rights violations happening under the watch of the sitting president – Mrs. Gloria Macapagal-Arroyo.

Let me put on record at the outset that complementary to the following, I am hereby adopting and incorporating by way of reference the Summary of Calls of the Ecumenical Voice on Peace and Human Rights in the Philippines, “Let the Stones Cry Out,” an ecumenical report on the human rights situation in the Philippines, released by the National Council of Churches in the Philippines (NCCP) March 2007, and the compendium of selected documents accompanying the foregoing as part and parcel of my oral and written testimony before your Honorable Subcommittee.

When Mrs. Arroyo was catapulted to the presidency in 2001, the country's human rights situation has not improved but has gone for the worst. Immediately upon assuming office, Mrs. Arroyo implemented the same economic policies of past administrations that did not change the conditions of the majority poor and ordinary Filipinos.

Her boasted “sound economic fundamentals” have sent more of our fellow Filipinos out of the country seeking for jobs abroad, sometimes even in countries where war is raging and their lives

are placed at great risk. The economic conditions of our people have worsened to a point that the latest surveys would indicate that more Filipinos would consider themselves poor and hungry.

Instead of promoting democracy and human rights consistent with the spirit of a People Power uprising that catapulted her to power in 2001, Mrs. Arroyo's administration has curtailed civil liberties, disregarded human rights and international humanitarian laws and launched attacks on the people.

The infractions on civil liberties and human rights occur against the background of a worsening political crisis of the Arroyo government and increasing foreign military involvement by President George Bush's administration.

Mrs. Arroyo is facing calls to vacate the executive office on serious charges of massive electoral fraud and graft and corruption, intense and vicious extrajudicial killings, political persecution and serious affronts to civil liberties consistent with her constant agenda for political survival.

Mrs. Arroyo has so far faced two impeachment complaints in the Philippine Congress for violation of the 1987 Constitution, betrayal of public trust, graft and corruption and human rights violations. Those who dare criticize the Arroyo government publicly risk being labelled as "destabilizers" or "communist sympathizers" or even "terrorists."

Mrs. Arroyo and her allies recently enacted into law the "anti-terrorism bill" (ATB), now called the "Human Security Act of 2007" which will practically kill the constitutionally-enshrined Bill of Rights and, many Filipinos fear, could be used as a legal ground for declaring martial law.

In the aftermath of the attacks in the U.S. on September 11, 2001, Mrs. Arroyo declared her support to the U.S.' "war on terror." The Philippines began receiving increased U.S. military aid and was named America's major "non-NATO ally in Asia."

Based on the June 2005 World Policy Institute Special Report, the Philippines has a requested Foreign Military Funding (FMF) aid from the U.S. government of US\$4.5 billion in 2006, a full \$1 billion increase from the FY 2001 level. The worrisome part of this aid, the same report says, is that "arming undemocratic governments all too often helps to enhance their power, frequently fueling conflict or enabling human rights abuses in the process." The report also posits the fear that giving arms to countries with active armed conflicts will exacerbate the conflict.

An internal security plan, codenamed *Oplan Bantay Laya* (OBL or Operation Freedom Watch), viewed as patterned after the Phoenix Program in Vietnam in the 1960s, was created in early 2002. The OBL was approved by Arroyo's Cabinet Oversight Committee for Internal Security (COCIS) and became a blueprint of the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP).

Although OBL purportedly aims to crush decisively the three-decade old communist rebellion, it highlights the "neutralization" of what the Philippine authorities call "front organizations," leaders and members as "enemies of the state." In effect, the new anti-terrorist-insurgent campaign makes no distinction between armed guerillas and unarmed activists, making the latter fair targets of political assassinations and abductions by suspected state-organized death squads.

The executive policy that is merged with the aforementioned military strategy had also taken the form of restrictions on civil and political rights, specifically through the Calibrated Preemptive Response (CPR) issued on September 21, 2005, the anniversary of Marcos' Martial Law, and Presidential Proclamation 1017 that placed the Philippines under a state of emergency on February 24, 2006, after which arbitrary arrests and illegal detention particularly in the cities became prevalent. Several arrests have been made including that of Rep. Crispin Beltran, a labor leader and representative in the House of Representatives from the *Anakpawis* (toiling masses) party-list. Five other members of progressive party-list groups *Bayan Muna* (people first), *Gabriela* (women's group) and *Anakpawis* were able to protect their liberty but are now facing what they and their lawyers say are illegal arrests on false charges.

In the six years of the Arroyo presidency, democracy and human rights continue to deteriorate in the Philippines. A total of 836 victims of extrajudicial killings has been recorded and documented since 2001 when she came to power. Three hundred fifty-seven (357) more were documented to have survived attacks on their lives. At least 196 other persons have been documented to have been abducted and remain missing to this day. Scores have been tortured while thousands have been displaced and harassed, hundreds have experienced physical assault in the course of military operations or while exercising their rights to assembly and free speech. The National Union of Journalists of the Philippines (NUJP) recorded 47 journalists killed in the course of their work during the same period.

The killings have victimized Filipinos coming from a wide range of sectors – farmers, workers, indigenous peoples, Moro people, lawyers, church people, human rights workers, youth activists, women and members of progressive groups, especially the new parties that were able to seat representatives in Congress. Twenty seven (27) KARAPATAN human rights workers and leaders were killed from 2001 up to the present.

The killings continue to be committed with impunity far surpassing that of the Marcos dictatorship. As a survivor of Marcos' martial law, I can say that the dictator was able to violate our rights because he declared martial law. Under Mrs. Arroyo, a virtual martial atmosphere is obtaining in the country without the formal declaration, under a supposed democratic society. Gross and systematic violations of human rights happen in the country now with such impunity that the victims are left with no recourse or redress from the institutions in the country.

A case in point is that of the case of my colleague, Eden Marcellana, secretary general of KARAPATAN-Southern Tagalog and Eddie Gumanoy, a farmer leader who was with her in an 11-member fact-finding team.

From 19 to 21 April 2003, Marcellana, a staunch and vocal oppositor to various military atrocities in Mindoro island and elsewhere, together with Eddie Gumanoy, chair of the peasant organization KASAMA-TK, led a group of human rights volunteers in a Fact-Finding Mission (FFM) – Quick Reaction/Response Team (QRT) in Mindoro Oriental, Philippines to verify and document reports of human rights violations committed reportedly by then Col. Jovito Palparan and elements of his 204<sup>th</sup> Infantry Brigade. On their way back from the mission, about a mere 5.5 kilometers from the military camp, the vehicle which they were riding in was stopped and commandeered by armed men. The dead bullet-ridden bodies of Marcellana and Gumanoy were found near each other in another town in the morning of 22 April 2003.

Due to widespread calls and public criticism, President Gloria Macapagal Arroyo was for the first time forced to form a Task Force from the Department of Justice (DOJ) to look into the subject kidnappings and murders. The Task Force recommended the filing of charges against a sergeant working directly under Col. Palparan and several rebel returnees under the latter's control. In the meantime, the sergeant was arrested for an unrelated charge of robbery but was able to post bail at once.

But the DOJ Panel of Prosecutors recommended the dismissal of the charges of arbitrary detention, murder and robbery against the respondents despite the independent, credible and positive identification by 4 survivors-witnesses and other overwhelming evidence. The Chief State Prosecutor dismissed the case accordingly on 17 December 2004.

Prior to such dismissal, congressional investigations were held before the House of Representatives and the Senate in May 2003. The House Committee on Civil, Political and Human Rights in its Report called for a further probe and the temporary relief of then Col. Palparan while the investigation was ongoing. The Senate Committee on Justice and Human Rights, after conducting an initial hearing, suspended its inquiry due to the ongoing preliminary investigation before the DOJ.

Almost contemporaneously, Col. Palparan's promotion to Brigadier General and then to Major General was eventually confirmed by the congressional Commission on Appointments despite various oppositions from different sectors. While the case was still pending preliminary investigation before the DOJ, Gen. Palparan was quietly sent to Iraq in early 2004 to head the Philippine Mission in the US invasion and occupation.

Separate hearings before the national Commission of Human Rights (CHR) were also heard. But after submitting testimonial and documentary evidence in support of their charge of human rights violations, the victims and their heirs were compelled to withdraw from the CHR hearings on because they sincerely believed at that point and under the circumstances then that they cannot get justice, that the hearing was to be used to clear Col. Palparan and remove obstacles to his pending promotion to Major General, and in view of another high profile extrajudicial execution in Mindoro of an activist lawyer and of Marcellana's successor. Nonetheless, the CHR issued a Resolution castigating Col. Palparan for his responsibility and inaction for various violations in his area of responsibility.

A separate complaint for violation of the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHIRHL) was filed before the Joint Monitoring Committee (JMC) of the Government of the Republic of the Philippines (GRP) and the National Democratic Front of the Philippines (NDFP) on 4 June 2004. The JMC has not yet acted on the complaint as the GRP has refused to convene with its counterpart after having met previously only twice in April 2004.

The victims and their heirs filed a Petition for Review/Appeal of the DOJ Panel dismissal on 22 February 2005 before the present Justice Secretary.

While the said Petition for Review/Appeal remained unresolved despite several efforts to follow it up or calls to resolve the same, the victims and the heirs participated in two non-governmental

people's tribunals to submit their testimonial and documentary evidence for the killing, namely: the International People's Tribunal (IPT) of the International Solidarity Mission (ISM) on August 2005 and the Citizen's Congress for Truth and Accountability (CCTA) on November 2005. In the IPT, Gen. Palparan and his military were particularly adjudged guilty of crimes against humanity and the extrajudicial killing of Marcellana and Gumanoy, among others.

The victims and their heirs were also compelled to file a specific complaint on 16 March 2006 before the United Nations Human Rights Committee (UNHRC) in New York against the Philippine government for violation of the International Covenant on Civil and Political Rights (ICCPR) under its Optional Protocol. The complaint remains outstanding.

In the meantime, there were reports that the sergeant implicated in the case was also sent to Haiti as part of the Philippine Mission to the UN peacekeeping forces.

Earlier, on October 2003, representatives of the victims and the heirs brought the case to the attention of the UNHRC in Geneva during its 79<sup>th</sup> Session. In that Session, then acting Justice Secretary Merceditas Gutierrez (now Ombudsman) openly claimed before the UNHRC that the case had already been filed in court when in fact it was still at the preliminary investigation before the DOJ at that time.

The present Justice Secretary eventually approved the dismissal of the charges by the DOJ Panel and denied the Petition for Review/Appeal of the victims and heirs only after almost two (2) long and agonizing years on 20 November 2006 through a minute perfunctory resolution. The victims and the heirs filed a Motion for Reconsideration on 7 December 2006 while the respondents filed their Comment on 22 December 2006. The incident is still pending.

From the above, this case is emblematic of the search for justice of human rights violations victims as it is clear that they and their heirs have tried practically every available legal remedy to seek justice not only before the domestic fora but even in the international arena. It is also clear that the acts of different agencies and branches of the Philippine government have individually and collectively engendered the impunity for this and other human rights violations.

From 2005 until August 2006, several separate and independent international peace and solidarity fact-finding missions were conducted in the Philippines by eminent human rights advocates and organizations. Members of these missions expressed dismay and alarm over the gross and systematic violations of human rights after finding out for themselves the magnitude of the violations and worse, the apparent failure of government authorities to address the problem or at least rein in the Philippine military, police and paramilitary forces.

In August 2005, 86 delegates from 18 countries came to the Philippines in an International Solidarity Mission (ISM) to look into reported cases of human rights violations. Evidence gathered and witnesses interviewed during the mission were presented before an International People's Tribunal (IPT) on August 19, 2005. The tribunal was presided by Nobel Peace Prize Nominee Dr. Irene Fernandez (Malaysia), civil liberties lawyer Prof. Lennox Hinds (USA) and human rights lawyer Hakan Karakus (Turkey) with a College of Jurors. Among others, the IPT found the Arroyo government guilty of human rights violations.

Alarmed by reports that lawyers and judges are also being killed or threatened, an independent delegation of two judges and six lawyers from The Netherlands and Belgium belonging to the Dutch Lawyers for Lawyers Foundation, Dutch Lawyers Without Borders, joined by the International Association of Democratic Lawyers (IADL), came to the Philippines for an International Fact Finding Mission on Attacks against Filipino Lawyers and Judges and investigated the violence committed against their Philippine colleagues in June 2006. Completing their mission, the group concluded that many lawyers and judges in the Philippines have been threatened and killed, especially since the beginning of 2005 and a remarkable number of these lawyers and judges have been involved in human rights-related cases confirming likewise that some authorities tagged many of the victims as “enemies of the state” that made them vulnerable to political assassinations.

In August, 2006, the 68-member International Peasant Solidarity Mission (IPSM), composed of 16 foreign participants from non-government and people’s organizations in the United States, Belgium, Canada, The Netherlands, Japan, and Nepal, found that there were clear indications of the military’s culpability, in particular the notorious Maj. Gen. Jovito Palparan, Jr. in most cases of extrajudicial killings of leftist activists.

Furthermore, religious denominations from different countries also voiced their alarm. The United Church of Australia, the third largest Christian denomination in Australia, released a report in Canberra on its inquiry into the deaths over the last two years of 14 clergy and members of the United Church of Christ in the Philippines.

In August last year, the Hong Kong Christian Institute (HKCI) likewise expressed its deep concern over the increasing number of political killings and human rights violations in the Philippines and urged the Arroyo government to take stronger action to address this issue and prevent further killings from taking place. Similarly, the Methodist Church in the United States as well as different groups from Canada led by the British Columbia Committee for Human Rights in the Philippines (BCCHRP) also voiced their concern.

Earlier, similar concerns were expressed by the World Council of Churches, the National Council of Churches in the Philippines and the Asian Human Rights Commission (AHRC), among many other institutions. The Inter-Parliamentary Union, an international assembly of parliamentarians, as well as the International Association of People’s Lawyers (IAPL) and prominent lawyers’ groups in the United States, Europe and even Africa, have voiced the same alarm.

Even representatives from embassies of a number of countries have also expressed their condemnation of the extrajudicial killings, abductions and enforced disappearances in the Philippines.

In a comprehensive report it released in August, 2006, the London-based Nobel Peace Prize winner Amnesty International stated in no uncertain terms that *“the methodology of the attacks, including prior death threats and patterns of surveillance by persons reportedly linked to the security forces, the leftist profile of the victims and climate of impunity which, in practice, shields the perpetrators from prosecution, has led Amnesty International to conclude that the attacks are not an unconnected series of criminal murders but constitute a politically-motivated pattern of killings. The organization remains gravely concerned that members of*

*the security forces may have been directly involved in the killings, or else have tolerated, acquiesced to, or been complicit in them.”*

Because of mounting and widespread criticisms on the extrajudicial killings, the President was compelled to order the police to look into these cases and solve them as soon as possible. Thus, the Philippine National Police formed the *Task Force Usig*. However, the head of the Task Force immediately announced that the perpetrators of the killings are the communists or the rebels themselves because of an “internal purge” within the communist movement.

Amidst even greater pressure on both the national and international leaders, President Arroyo also formed the Melo Commission on August 21, 2006, which she said she empowered to make independent investigations into the killings. This was declared amidst calls for an independent investigative body that would look into these cases. But human rights organizations as well as victims’ relatives simply did not have trust in this commission and thus did not participate in its hearings. The President did not consult the victims or the human rights organizations on the composition of the commission, the members of which she handpicked and thus, was perceived as not *the independent* body that will look into the cases.

In September, 2006, the President went to Europe and facing international protest actions, invited European nationals to go to the country to look into these killings as the European Union called on her to resolve the cases.

Criticisms continued to hound the Arroyo administration as the killings of leaders and key members of progressive people’s organizations went on. Because of pressure, the administration was forced to formally invite the UN Special Rapporteur on Extrajudicial, Summary of Arbitrary Executions, Mr. Phillip Alston, to visit the Philippines in February of this year.

After a 10-day visit and a series of meetings between non-government organizations, government offices as well as witnesses and relatives of victims, Mr. Alston said that, *“The AFP (Armed Forces of the Philippines) remains in a state of almost total denial (as its official response to the Melo Report amply demonstrates) of its need to respond effectively and authentically to the significant number of killings which have been convincingly attributed to them. The President needs to persuade the military that its reputation and effectiveness will be considerably enhanced, rather than undermined, by acknowledging the facts and taking genuine steps to investigate. When the Chief of the AFP contents himself with telephoning Maj-Gen Palparan three times in order to satisfy himself that the persistent and extensive allegations against the General were entirely unfounded, rather than launching a thorough internal investigation, it is clear that there is still a very long way to go.”*

He further went on to say, *“The increase in extrajudicial executions in recent years is attributable, at least in part, to a shift in counterinsurgency strategy that occurred in some areas, reflecting the considerable regional variation in the strategies employed, especially with respect to the civilian population. In some areas, an appeal to hearts-and-minds is combined with an attempt to vilify left-leaning organizations and to intimidate leaders of such organizations. In some instances, such intimidation escalates into extrajudicial execution. This is a grave and serious problem...”*

Mr. Alston’s visit also paved the way for the public release of the report of the Melo Commission, which was initially not made public by the government despite public clamor from

different camps. However, after a scathing statement from the UN Special Rapporteur, the President was forced to order the release of the report to the public. In spite of the fact that the Melo commission based its findings on documents that came mostly from the police that are themselves widely believed to be complicit, the Melo report still say that extrajudicial killings are going on in the country and “rogue elements” in the military may “have a hand” on these killings.

But the killings are going on with such a brazen impunity and unless stopped, will continue to erode the foundations of a democratic society and rule of law in a supposed democratic Philippines. Recently, the Chief of Staff has announced the continuation of the Oplan Bantay Laya II with the deployment of military troops in urban slum areas where progressive partylists gained high number of votes in the 2004 elections. Terror grips these communities and we fear a further escalation of killings and violence in the runup to the 2007 elections in May. Just recently, the government has finally issued a warrant of arrest on the basis of trumped up charges to one of the progressive partylist candidates. Harassments and surveillance on our offices are getting to be frequent.

Thus, unless the extrajudicial killings are ordered stopped by our President, as commander-in-chief, who has supervision and effective control of the armed forces, there will be no let-up in these human rights violations. And unless adherence to basic due process, democratic principles, civilian supremacy over the military and elementary principles of international humanitarian law that distinguishes combatants and civilians are faithfully done by the Arroyo government, the killings will continue.

And it is at this juncture that even more effective international moral and other pressure be brought to bear upon the Philippine government especially that the brutal and unmitigated killings, disappearances, torture, harassment and persecution of its citizens still haunt the Filipino people with unbridled impunity despite the wide array and breadth of national and international criticism and condemnation.

Thank you.