

May 1990

"DISAPPEARANCES" IN THE PHILIPPINES

Johnny Salivo, an organizer for the National Federation of Sugar Workers in Negros Occidental, Philippines, disappeared on April 6, 1990 after being abducted by armed men believed linked to the Armed Forces of the Philippines. He is the fourteenth person to have been abducted by agents of the government this year. Seven persons remain missing and three others died while in military custody.

Asia Watch is concerned by the growing number of disappearances throughout the Philippines, from rural areas of Bulacan Province to Manila. Most of the victims are members of labor, peasant, or urban poor organizations suspected by the military of being front organizations for the Communist Party of the Philippines or its armed wing, the New People's Army (NPA). Others are suspected NPA combatants or sympathizers.

Asia Watch is calling on the Philippine government to conduct full and impartial investigations into all cases of disappearances and to bring those responsible to justice. It welcomes the invitation extended by the Philippines government to the United Nations Working Group on Disappearances in August 1989 to visit the Philippines and urges that everything possible be done to ensure that the visit takes place in 1990.

Legal and Institutional Obstacles to Investigating Disappearances

A person "disappears" when he or she is abducted or taken into custody by agents of the government who then refuse to acknowledge holding the person in question. Because of the severity of the problems of disappearances during the final years of the Marcos government, human rights lawyers and others made a concerted effort to get legal safeguards established by the Aquino administration which would prevent disappearances from taking place. The Bill of Rights in the 1987 Constitution, for example, guarantees that "no person shall be deprived of life, liberty, or property without due process of law" and states in Section 12 (2): "No torture, force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against [a person under investigation]. Secret detention places, solitary, incommunicado or other similar forms of detention are prohibited."

But in the Philippines, as in other civilian democracies elected after periods of military repression, legal safeguards are not enough, as the UN Working Group notes in its 1989 annual report. Referring to such democracies, the report says,

"Judges and other responsible authorities had allegedly often failed to investigate human rights violations thoroughly. Those that had attempted to do so were reportedly confronted with intransigence on the part of military and police officials who allegedly often restricted or refused access to detention centres, and failed to appear when summoned to court proceedings. Those leading investigations into disappearances were reportedly sometimes subject to death threats or murdered.

"Communications received from non-governmental organizations, associations of relatives of missing persons and family members also revealed threats, harassment and violence directed at persons directly involved in the search for disappeared persons, at human rights activists defending or promoting cases of disappeared persons in judicial proceedings, and at witnesses capable of providing information on disappearances...

"Another phenomenon which also allegedly contributed to the problem of impunity [of those responsible for disappearances] was the responsibility held by military tribunals for investigations and prosecutions of human rights violations committed by police or military officials in the course of their duties. It is alleged that these authorities did not usually carry out impartial investigations, implement prosecution proceedings, or convict members of such forces suspected of human rights abuses, and thus allegedly acted as a shield for these officials..."¹

In the Philippines, relatives or friends who seek to find the "disappeared" person face a number of legal and institutional obstacles to overcome. They may pursue the case through the Commission on Human Rights, the Department of Justice, the National Bureau of Investigation, or the Human Rights Committee established by Administrative order 101 of December 1988, but none of these institutions has a record of conducting effective investigations, particularly given an intransigent military that either ignores investigators or intimidates witnesses, lawyers and officials.

The inherently clandestine nature of "disappearances" further obstructs efforts to trace the victim. Arrest procedures are frequently violated. Although there are time limits within which a detainee must be charged with an offense, and which vary according to the gravity of the offense -- 12 hours for minor offenses, a maximum of 36 hours for a serious offense -- in reality detainees are often held for periods in excess of legally permissible limits without being charged. People are detained without legal

¹ "Report of the Working Group on Enforced or Involuntary Disappearances", United Nations Economic and Social Council, E/CN.4/1990/13, January 1990, pp. 5-6.

authority; authorities responsible for the detention do not promptly acknowledge holding the detainee, and often deny it; and detainees are kept incommunicado for a period of time, often in military camps or "safehouses" where they are interrogated to elicit information. The sheer numbers of illegal arrests and the lack of access of detainees to friends, family or counsel -- even if only temporary -- make the distinction between an illegal arrest and a "disappearance" difficult to determine, by which time it may be too late. It is during the periods of incommunicado detention that detainees are particularly at risk of being tortured or killed in custody, as in the case of Efren Concepcion.²

For the victim's family and friends one of the most potent weapons is the filing of a *habeas corpus* petition, which, if successful, requires the military or police to provide legal justification for the person's detention, or release him or her immediately. In reality, however, *habeas corpus* petitions can only be successful in cases in which there are witnesses who are able and willing to identify the abductors; the petitions may be easily frustrated by the military simply denying the existence of the person. This often has the practical effect of shifting the onus back onto the petitioners to prove the person is being held and detained illegally -- a very difficult burden to prove given the intimidation of witnesses and the petitioners' limited resources and access to information.

The judiciary also can and does frustrate the effectiveness of *habeas corpus* petitions. As some of the cases below demonstrate, excessive delays in deciding the cases are not uncommon and are particularly tragic when dealing with "disappearances" which demand the speedy resolution of cases to ensure the safety of the victim. In the 1989 case of Maria Nonna Santa Clara, it took the Supreme Court more than six months to decide to refer the case to the Commission on Human Rights (CHR) rather than make a decision themselves on the *habeas corpus* application, and this was after the Regional Trial Court had submitted to it a report in favour of the petitioners. In a number of cases the Supreme Court has denied *habeas corpus* detentions, even after prolonged detention, if the detainees are subsequently charged with a criminal offense.

In the *habeas corpus* petition filed on behalf of Maximiano Mesina and Felix Dimitui, the Regional Trial Court denied the petition on the basis that since the victims' families had filed kidnapping charges against the persons alleged to have been involved in the abduction, the proper action was no longer a *habeas corpus* petition, but a criminal action. This decision effectively undermines the purpose of *habeas corpus* petitions: to seek the speedy release of a detainee in the absence of legal justification for the continued detention.

In the same case, the judge refused to admit the sworn statement of an eyewitness to the incident because the eyewitness did not testify before the court in person, reportedly for fear of retaliation. Similarly in the 1989 case of Feliz Cardano and Rodolfo Ubusan, the fear of reprisals prevented a key witness from appearing, forcing two hearings to be postponed.

Aside from filing an *habeas corpus* petition, few legal remedies are available to family and friends. The families, as well as the institutions which have been constituted to undertake this role, are burdened with a lack of financial resources for a long-drawn investigation.

It is also worth noting that the increase in the number of "disappearances" has coincided with the

² Efren Concepcion's case and other cases referred to are described on pages 4-11 below.

State of National Emergency which was signed into law by President Aquino on December 20, 1989. While a direct causal link is difficult to establish between the emergency regulations and the disappearances, some observers note that an increased incidence of human rights abuses under states of national emergency is consistent with the general pattern experienced elsewhere where law enforcement officials, emboldened by emergency powers, often exceed legally constituted limits.

The Philippine Government's human rights obligations

The Philippine government is under a legal obligation to try and prevent disappearances, investigate thoroughly those which occur, and punish those found responsible. The Philippine government has ratified the International Convention of Civil and Political Rights, was one of the sponsors for the Convention on Torture adopted by the United Nations General Assembly in 1975, and in December 1988 agreed to abide by the principles embodied in the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by consensus in the UN General Assembly. This latter agreement specifically imposes on States a positive obligation to prevent the occurrence of disappearances, and requires States to conduct investigations into disappearances by a judicial or other authority. These principles apply to all countries and apply all the time.

Furthermore, disappearances *per se* are generally considered to be in violation of the norms of customary international law because of the number of fundamental rights which are violated in the process: for example, the right to life, to humane treatment, to personal liberty, to due process before the law, and the right not to be tortured.

Recent cases of Disappearances

Johnny Salivio - Bacolod, Negros Occidental

Johnny Salivio, aged 27, was abducted on April 6, 1990 by at least four armed men believed to be either police or military agents and a former member of the NPA, commonly referred to as a rebel surrenderee. Salivio, an organizer of the National Federation of Sugar Workers - Food and General Trades (NFSW-FGT), has been one of the union's most visible and vocal leaders. Union officials believe he was targeted for abduction because of his role in the union activities. His whereabouts were unknown as of May 2.

The abduction was witnessed by two of his companions, both of whom worked with him in the union's office in Murcia, Negros Occidental. The three men were passengers in a jeepney travelling from Talisay to Bacolod city, when their jeepney was overtaken by a black jeep without license plates and forced to stop about a hundred meters from a police precinct. According to the witnesses, a former member of the NPA, Wincelao Solis of barangay Granada, Bacolod boarded the jeepney together with an unidentified man, and the two, pointing their handguns at Salivio, ordered him to get out. When Salivio refused, he was punched in the abdomen, dragged from the jeepney, and forced into the black jeep in which sat two other men, armed with M-16 rifles. Salivio's companions were unable to respond to his pleas for help for fear of being shot.

When the witnesses took a taxi to the union's office to report the incident about 10 minutes later, they saw the jeep used by Salivio's abductors returning to Talisay.

Diosdado Baylon - Catbalogan, Samar

Diosdado Baylon, a member of the Samar Assistance for Farmers Development Inc. (SAFDI) in the village (barangay) of Pangan, Catbalogan, Samar, disappeared on March 3, 1990. According to the barangay captain, Pedro Laberen, who witnessed the event, he was abducted by ten military men in barangay Palaniogan, Catbalogan. According to reports, Laberen is now too frightened to give any more details.

This latest disappearance in Catbalogan is consistent with a pattern of intimidation and violence against non-governmental organizations (NGOs) in the area. According to local human rights groups there have been rumors of a death list of NGO members circulating in Samar among the military. A number of NGOs have apparently closed and members have fled to Manila (see case of Nestor Loberio and Diomedes Abawag below).

Efren Concepcion - San Sebastian, Hagonoy, Bulacan Reynaldo Santos

Efren Concepcion, Nicolas Lopez and Reynaldo Santos "disappeared" after they were detained by members of a joint military and paramilitary force on February 11, 1990 in San Sebastian, Hagonoy, Bulacan province. According to local human rights organizations, Efren Concepcion was beheaded by his captors on or before February 13. Nicolas Lopez, who initially "disappeared" on February 11, and his son Roberto Lopez, who went missing in a separate incident on February 15, both surfaced in the custody of the joint military/paramilitary force from which they subsequently escaped. Reynaldo Santos is still missing.

The unit implicated in the "disappearances" is called the "Special Task Force Anti-Illegal Fish Pond" and is reportedly organized by the Philippine Constabulary Provincial Commander of Bulacan. The unit is made up of elements of the Integrated National Police (INP), CAFGUs (Citizens' Armed Forces Geographical Units) and rebel surrenderees. It was led by a former rebel surrenderee, now CAFGU member, Carlos Capili, also known as "Vicki". The unit has been implicated in a number of human rights abuses in the area.

Efren Concepcion, Nicolas Lopez and Reynaldo Santos were reportedly detained in the early morning of February 11 by fifty (50) armed soldiers wearing camouflage gear who conducted a house-to-house search in the village (barangay) of San Sebastian. According to reports, at around 3 a.m. Efren Concepcion was taken from his house and beaten by soldiers. Neighbors reportedly heard him crying out in pain before being taken away. Nicolas Lopez and Reynaldo Santos, who had been staying over at the Concepcion house, were taken away separately. It is believed that all three may have been detained in a chapel in the nearby village of Santa Cruz, Hagonoy municipality, which apparently serves as a local CAFGU headquarters. When relatives and human rights advocates made inquiries about the missing men the military authorities denied ever having them in custody.

Nicholas Lopez escaped from custody on February 13 after reportedly having witnessed the beheading of Efren Concepcion. He is believed to have had a nervous breakdown and went into hiding soon afterwards.

Nicholas Lopez's son, Roberto Lopez, also "disappeared" in a separate incident around 4.30pm on February 15, 1990 in the village of San Augustine, Hagonoy municipality. According to eyewitness accounts, he was abducted by two policemen, identified as Andres Laderas and Pastor Gutierrez, who are also thought to have been involved in the February 11 disappearances. The two men reportedly smashed Roberto's head against a cement wall and threatened him with a handgun before forcing him into a waiting Ford Fierra jeep which bore Integrated National Police (INP) insignia. When Roberto's wife and mother went to the police headquarters to inquire about his whereabouts, the men on duty denied having him custody and told them the two police officers that were identified did not exist.

Roberto Lopez reportedly escaped on February 19 and also went into hiding. It is believed that Roberto was first held at the local police station and was later transferred to the same CAFGU residence in Santa Cruz village.

According to reports, it is believed that Nicolas and Roberto Lopez were not killed because they pretended to be willing to join the CAFGU.

All four men who "disappeared" were members of Bangkalis, a fisherman's organization in Bulacan. Efren Concepcion was the provincial Vice-Chairman of Bangkalis and General Secretary of KAMPI, the west-Bulacan district chapter of ALIMA, a human rights organization in Bulacan province. (Also see case of Antonio Buenavista below)

Nestor Loberio - Catbalogan, Samar Diomedes Abawag

Nestor Loberio, project director of Samar Assistance for Farmers Development Inc. (SAFDI), "disappeared" after he and Diomedes Abawag, a SAFDI staffworker, were abducted by armed men believed to be members of a military intelligence "death squad", on January 29 1990 in Catbalogan, Samar province. It is believed that Diomedes Abawag was tortured and beheaded by his abductors. His head, reportedly bearing signs of torture, was found in the sea by fishermen near barangay Butaena, Zumarraga, Samar, on February 1, 1990. No trace of Nestor Loberio has been found.

According to a sworn statement by an eyewitness, at about 6 pm the two men were "dragged forcefully" into a maroon-coloured jeep with no number plates, by several armed men in plainclothes. The jeep, which was waiting in front of an automobile shop, then drove off in the direction of Ubanon district, Catbalogan.

Their abductors are believed to be members of a "death squad" called "Banagan", allegedly set up by the Military Intelligence Group of Region 8 (MIG 8) based at Camp Lukban, Catbalogan. Most of "Banagan" members are thought to be former vigilantes from the San Miguel area, Leyte province. It is believed that the prosecution will be filing criminal charges against a military and a police officer involved.

On February 4, two headless bodies were found; one in barangay Iquid, Catbalogan, and the other in San George Poblacion, Samar. Initially it was believed that these two bodies were those of the missing men, but this is no longer thought to be the case.

Antonio Buenavista - Hagonoy, Bulacan

Antonio Buenavista, aged 42 and member of a Bulacan fisherman's organization, Bangkalis, was abducted by a group of armed men on January 7, 1990 in Santa Cruz, Hagonoy, Bulacan province. It is believed his abduction stems from his refusal to join the local CAFGU unit in the area. He has not been seen since.

Five of the armed men believed to have been responsible for the abduction are Carlos Capili, alias "Vicky" from Santa Cruz, Hagonoy; Joselito Caparas, alias "Tito" and Perfecto Cabantog, alias "Peter", both from San Pascual, Hagonoy; Genaro Capili, alias "Enar" and Antonio Capili, alias "Tony" both from San Roque, Hagonoy. All of the abductors are former rebels who surrendered to the government and are now active and helping the military in counter-insurgency operations and building CAFGUs in the area.

According to reports, at about 7 pm in the evening the men, armed with high powered rifles and hand guns, arrived at Buenavista's house in a white car. They demanded that Antonio go with them but he refused, suspecting that he'd be killed. The armed men then tried to drag Antonio outside but he resisted, clinging to the furniture.

Antonio's wife Ester, who was buying food nearby, was alerted to what was happening by their son Jesus. As Ester approached the house, she saw her husband being shot in the hand, forcing him to let go of the furniture. When Ester tried to get closer she was shot at by one of the men, but the bullet missed. Antonio continued to resist his abductors until Carlos Capili knocked him unconscious by a blow to the head with his rifle butt. Ester then ran to the house of the barangay captain to seek help, but when she returned, Antonio, the armed men and the car were gone.

At around 9pm on the same evening, Ester, accompanied by the barangay captain and some neighbors, went to the police headquarters in town to report the abduction. They requested the police to go with them to find Antonio, but the policemen refused, reportedly saying that it would be hard for them to intervene.

On January 16 a case of kidnapping and a petition of habeas corpus were filed in court against Carlos Capili and his group. The case was heard on March 12, but no decision has been made. To date, none of the men has been arrested, and, disturbingly, some of the men have been implicated in subsequent human rights abuses. (See case of Efren Concepcion above)

Maximiano "Jun" Mesina - Tarlac Felix Dimitui

Maximiano Mesina, Jr. and Felix Dimitui, aged 33 and 23 respectively, have not been seen since

they were arrested by armed men believed to be members of the 181st Philippine Constabulary (PC) based in Camp Makabulos, Tarlac on January 2. Both men were former political prisoners and worked for the Alliance of Peasants of Central Luzon (AMGL). A writ of *habeas corpus* filed before the Regional Trial Court on January 5 was denied. As of May 2, the men remain missing.

Witnesses claim that the two men, who were walking near a bus terminal in Tarlac between 11.30 and 12.00 a.m., were arrested by armed men in civilian clothes, led by a PC Sergeant, Bartelome Soluta, who was a member of the 181st PC company.

On the same day, relatives of the missing men, local leaders of the AMGL and human rights workers went to the PC provincial headquarters at Camp Makabulos to inquire after the two missing men. The PC officers denied holding them in custody. The next day, the PC Assistant Provincial Commander Major Rodolfo Inocencio told the group that the two had not been arrested and that the PC sergeant who had been identified was away from the camp and could not be reached.

In a disturbing development to the case, the Regional Trial Court in its decision of January 26 denied the writ of *habeas corpus* on the basis that since the families of the missing men had filed kidnapping charges against the alleged perpetrators, a criminal action was more appropriate, thereby making the *habeas corpus* petition ineffective. The court also refused to admit as evidence a sworn statement of an eyewitness, because the witness refused to testify before the court for fear of retaliation. The Department of Justice has since transferred the venue of the case from Tarlac to Manila. Human rights groups have also requested a waiver of PD 1850, which would take the case outside the exclusive jurisdiction of a military tribunal, allowing the case to be heard in a civilian court.

Both men had been former political prisoners and were arrested, along with sixteen others, on March 13, 1989 following a PC raid on the AMGL offices. All eighteen were released on September 19, 1989 after the Regional Trial Court in Pampanga ruled that there was insufficient evidence to convict them of charges relating to "possession of firearms in furtherance of rebellion." It is believed that the firearms allegedly found in their office had been planted by the arresting PC unit and the "subversive literature" was pamphlets on agrarian reform and political literature freely available in bookstores and libraries.

Disappearance Resulting In Death

Felipe "Wilson" Leonides Jr. - Metro Manila

Felipe "Wilson" Leonides Jr., aged 27, an active member of the urban poor organization Kongreso ng Pagkakaisa ng Maralit sa Lunsod (KPML), was abducted from a restaurant in Santa Cruz, Metro Manila on February 22 by armed men. His relatives searched for him at local police stations, hospitals and detention centres, but no one admitted holding him in custody. On March 1 Leonides was found dead in the Camp Bago Bantay of the Military Intelligence Group (MIG) in Pag Asa, Quezon City. According to the military, Wilson committed suicide by hanging himself.

On the day of his abduction Leonides and two companions went to the restaurant after taking part in a peace rally organized by the National Movement for Civil Liberties on the occasion of the fourth anniversary of the overthrow of President Marcos. According to eyewitnesses, approximately six armed

men in plainclothes entered the restaurant, pointed a .45 gun at Leonides and forcibly dragged him outside to a waiting vehicle. Another armed man was left behind warning the others not to follow. Leonides was heard shouting for help, but his friends did not intervene because of fear of their own safety.

Leonides' whereabouts were unknown until February 28, when he suddenly appeared in his sister's house in Aniban, Bacoor, Cavite accompanied by five MIG members as escorts. He assured his sister, Marilyn Soriano, of his safety and that he had signed surrender papers. He reportedly told her that he intended to cooperate with the military and requested that his family be brought home to their province in Iloilo.

The next day Camp Commander, Col. Saturnino Dumlao, informed Wilson's sister of her brother's death by suicide. There remain, however, conflicting reports from the hospital staff and the military as to the details of his death.

According to Col. Dumlao, Leonides had committed suicide and he was found hanging with a clotheswire around his neck inside his cell. The military said he was slightly breathing when they brought him down and was provided with first aid then rushed to V. Luna General Hospital. Melinda received contrary statements from doctors and nurses at the hospital, however, who indicated that Leonides was cold and dead when he arrived.

Col. Dumlao showed Melinda documents allegedly stating her brother was a member of the Alex Boncayao Brigade of the New People's Army, a so-called "sparrow squad" involved in political assassinations in Metro Manila. According to a local human rights organization, a letter written by Leonides and addressed to his relatives was also found, in which he stated that he could no longer take it and wanted to get out of the organization.

On March 2 medical doctors connected with the Medical Action Group (MAG), an organization providing medical care to the poor, observed the autopsy on the body undertaken by the Philippine Constabulary (PC) Crime Laboratory doctors. For a number of reasons, including the fact that the body of the victim was not seen until 20 hours after the declared death (12:05 am, March 1, 1990), MAG in their preliminary autopsy report could not authoritatively determine whether or not Leonides did, in fact, commit suicide. Apart from a minor bruise, there were no signs that he had been physically tortured.

Wilson's family have since requested a full investigation by the Commission on Human Rights.

Update on 1989 cases

Maria Nonna Santa Clara - Naga City, Camarines Sur Angelina Llenaresas

Maria Nonna Santa Clara and Angelina Llenaresas, both workers of the Ecumenical Council for Research and Development, were reported to have been abducted at barangay Santa Cruz, Naga City, Camarines Sur province on the afternoon of April 26, 1989. It was alleged that military operatives from the 244th PC Company Intelligence Section based at Concepcion Grande, Naga City were responsible. Their case is instructive as to the institutional limitations which prevent the speedy and effective

resolution of disappearance cases.

Both women were doing research work in barangay Santa Cruz and had just left the residence of Jaime Pellas when they were followed by three unidentified men. The men abducted them and took them aboard a light green jeep with no license plates. The jeep headed towards Concepcion Grande, Naga City which is also where the 244th PC Company Headquarters is located. Eyewitnesses positively identified a Captain Ramon Claros of the Intelligence section of the 244th PC Company as one of the plainclothes men on board the vehicle. The authorities denied all knowledge of the womens' whereabouts, despite testimony of a number of witnesses who claim to have seen the two women in military custody on the day of their "disappearance".

On May 2, 1989 the womens' lawyer filed a writ of *habeas corpus* before the Regional Trial Court in Naga City. On the same day this writ was withdrawn because of intimidation of witnesses and filed before a Regional Trial Court in Manila naming, among others, the Provincial Commander and Captain Ramon Claros as respondents. The Regional Trial Court in July submitted to the Supreme Court a decision in favour of the families. It then took a full six months before the First Division of the Supreme Court resolved to refer this matter to the Commission on Human Rights (CHR).

It is now almost one year since the two women "disappeared" and eleven months since a *habeas corpus* petition was submitted to the Supreme Court. Yet another delay is expected for the CHR to re-examine the case and make recommendations to the Supreme Court.

In the meantime, the family of Maria Nonna Santa Clara, witnesses and others involved in the case, have received death threats, believed to have come from members of the military. Commissioner Abelardo Aportadera of the CHR, however, denies either of the families have been subjected to any form of harassment relating to the case. The family has since left Naga City.

Feliz Cardano - Metro Manila Rodolfo Ubusan

Felix Cardano, Secretary General of the Malabon Labor Alliance-Kilusang Mayo Uno (KMU - May First Movement), and Rodolfo Ubusan, a member of the same union, "disappeared" on May 1, 1989 after police and soldiers forcibly dispersed a Labor Day rally in which they participated. There are reports that a witness saw both men being forced into a jeep, and it is believed that they were taken into custody.

The Labor Day rally in Metro Manila, in which over 2,000 people participated, was dispersed with tear-gas by members of the Western Police District (WPD) and soldiers from the Capital Regional Command (CAPCOM). A number of people were arrested, but released the next day. The authorities have continually denied having Cardano or Ubusan in custody.

The national labor federation, Kilusang Mayo Uno (KMU - May First Movement) filed a petition of *habeas corpus*. Both hearings had to be postponed because the witness failed to appear, reportedly for fear of reprisals. To date the whereabouts of the two unionists remain unknown.

Conclusion

The cases cited above, although they do not constitute a comprehensive list of all the disappearances reported this year, illustrate the emerging pattern of disappearances over the course of the last few months. They demonstrate that in spite of the often clear evidence which suggests a degree of military or paramilitary involvement in a disappearance, a combination of official tolerance, and avoidable legal and institutional obstacles, make it difficult to trace the victim and to prosecute and punish those responsible.

Asia Watch believes the pattern of disappearances reflects a lack of political will on the part of the Aquino administration to stop them and constitutes a breach of the government's international human rights obligations.

Recommendations

In order to effectively discourage the practice of disappearances occurring in the future, we urge the Philippines government to implement the following recommendations:

1. Presidential Decree 1850 (PD 1850) of 1982 should be immediately repealed. The requirements of PD 1850, which give military courts exclusive jurisdiction over human rights cases filed against military personnel, have been waived in very few instances. President Aquino has publicly committed herself to repealing PD 1850 but vetoed a bill for its repeal on December 21, 1989 because of the particular circumstances arising out of the December 1989 coup attempt. At the same time she vetoed the measure, she proposed a new bill with alternative wording which is currently under discussion in the Philippine Congress. Asia Watch believes it is crucial for ordinary courts to regain jurisdiction over cases involving alleged abuses of civilians by the security forces. Until PD 1850 is repealed, President Aquino should proclaim a general Presidential waiver of PD 1850 in all disappearance cases.
2. The government should establish a judicial commission of inquiry to look into the current practice and adequacy of *habeas corpus* petitions with the view of recommending to Congress legislative improvements to enhance the efficiency and effectiveness of legal remedies available to families of the disappeared.
3. More money and resources should be allocated to a fully-funded witness protection program under the auspices of the CHR and information regarding the existence and availability of the program should be disseminated as widely as possible throughout the country. The program should provide for effective witness protection nationwide and the opportunity for cases to be heard outside the area in which the disappearance occurred. This is in order to minimize the threats, intimidation and harassment of lawyers, witness and family members which frequently occurs in rural areas. Reports of threats and harassment should be immediately investigated and it should be made clear to Officers-in-Charge of the witnesses that they will be held responsible if anything happens to them.
4. Military or paramilitary personnel who are alleged to have been directly involved in a disappearance should immediately be suspended from active duty pending a full and thorough investigation of the case. They should also surrender their firearms to the appropriate authorities while the investigation is being

conducted. Officers of the Armed Forces and military organizers of the CAFGUs should be held responsible for the human rights abuses of those under their command.

5. Military personnel who use, or have knowledge of the use of, safehouses, undisclosed detention centers, or any incommunicado detention, all of which are illegal under the constitution, should be strictly punished. Those responsible for illegal arrests must also be punished either by criminal or administrative sanction and the practice of detaining persons solely for questioning should be strictly prohibited. Detainees must only be held in publicly recognized detention centers, and the names of the detainees and place of detention should be entered on a regularly updated central register available on request to members of the public.

6. The government should revive and strengthen the Task Force Disappearances of the CHR through increased finances and personnel. Qualified experts, such as doctors and forensic experts who are independent from the security forces, should be employed by the government to assist the families of the disappeared.

7. The government should take measures to ensure that the military accords CHR and independent investigators full cooperation and complies with their requests for assistance. Furthermore, measures should be taken to ensure non-governmental human rights organizations are not hindered or harassed by military personnel in the pursuance of legitimate human rights activity.

8. We welcome the Philippine government's invitation to the UN Working Group on Enforced or Involuntary Disappearances to visit the Philippines and urge that the Working Group be allowed to conduct their investigation at the earliest possible convenience.

Jack Greenberg is Chairman of Asia Watch; Matthew Nimetz and Nadine Strossen are Vice-Chairmen; Sidney Jones is Executive Director. Asia Watch is affiliated with Human Rights Watch which also comprises Africa Watch, Americas Watch, Helsinki Watch and Middle East Watch. The Chairman of Human Rights Watch is Robert L. Bernstein; the Vice-Chairman is Adrian DeWind; the Executive Director is Aryeh Neier.

