CHAPTER VI

IMPACT OF MILITARIZATION ON HUMAN RIGHTS IN THE PHILIPPINES

Ferdinand Marcos was in power in the Philippines for almost 20 years before he fled into exile in the United States on 25 February 1987. For all but seven of those years, he had exercised dictatorial powers in a system he called "Constitutional Authoritarianism". By the time he departed, a pattern of gross and systematic violations of human rights had been well evolved through militarization.

President Marcos assumed full control of the executive and legislative branches of government and direct personal command of the military after his proclamation of martial law. In the first few days of martial law, Marcos arrested and detained thousands of critics and opposition leaders; disclosed the Philippine Congress; closed down the independent Press; suspended the right to *habeas corpus*; and took full control over all appointments to the judiciary. The closure of Congress and the President's control over the judiciary removed essential checks on executive and military
authority. The power of the legislative and judicial branches of government continued to be severely circumscribed even after martial law had been officially lifted in 1981.

Although arbitrary arrests and detention and torture were the most prevalent human rights violations during the martial law period, the number of "disappearances" and extra-judicial executions increased dramatically in the last five years of the Marcos government after martial law was lifted. Victims included political party workers, students, peasants, all suspected of engaging in or supporting "subversive activities." Developments in the military also affected the human rights situation under Marcos regime.

Since 1972, the Philippines was fast becoming a country where the cheapest commodity was human life. Militarization, manifested mainly in acts of violence against civilians, has had its most telling effects on the peasants in the countryside where the majority of the

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Filipino people live. Pacification campaigns, termed by the Philippine military as "peace drive", were conducted in many parts of the country which ironically had caused gross human rights violations such as mass arrests and detention, torture, "salvagings", forced evacuation, massacres, 'disappearances' during raids and zoning operations in the barrios, and other military incursions.

Nature of Human Rights Violations

1. Arrest and Detention

Arbitrary arrest and indefinite detention without charge or trial were made possible by a series of Presidential Orders and Decrees. Initially intended to facilitate the arrest of those suspected of national security offences, the decrees gradually expanded the range of offences to include everything from 'spreading false rumors' to cattle rustling. People arrested on these grounds were officially referred to as 'Public Order

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2 This was revealed during my visits to several Provinces which are known as militarized regions. Also, this has been proved by the fact-finding mission reports of several national and international human rights organisations.

3 Philippines: Unlawful killing ..., op.cit., p.6.
Violators' (POVs). These rules specified categories of authorised arrests, the proper conduct of law enforcement officers making arrests; the procedure for reporting arrests; the recognized detaining authorities to whom an arrested person should be delivered; the treatment and safeguards to be accorded to detainees including rights of access; the procedure for the delivery of detainees to a proper judicial authority; the procedure for charging and trying of detainees.

After the lifting of martial law, changes in these rules were announced, particularly with regard to the turning over of the detainees to the civilian authorities of detention, and other judicial procedures. However, it had been proved that the announced changes did not alter the pattern established during martial law whereby those authorised to arrest and detain suspected 'Public Order Violators', systematically disregarded the established procedures set out in the rules. Moreover, deviation from the rules was rarely only technical or minor but entailed serious violation of the rights of the person arrested and detained, including such fundamental rights as the right to

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life and the right not to be subjected to torture or other cruel, inhuman and degrading treatment. In a high proportion of cases, the methods used by government agents against alleged opponents in no way approximated to the prescribed arrest and detention procedures. These methods included outright executions and abductions to secret places of detention ("safehouses") and isolated places where the victim was tortured and, in some instances, finally executed.

Categories of 'Authorised Arrest' specified different kinds of arrests under martial law such as, Arrest by search and seizure order (ASSO) issued by the President, the Minister of National Defence or a duly designated representative, arrest by warrant issued by a competent court, civil or military, citizens arrest.\(^5\) The authority of the Minister of National Defence and members of the AFP to issue ASSO's was formally limited by LOI No.772 of 27 November, 1978, which required that there should be prior clearance by the President.

Even after the lifting of martial law categories of authorized arrest remained broadly similar to those

permitted under martial law. The continued suspension of
the privilege of the writ of *habeas corpus* in national
security cases, as provided for in Proclamation No. 2045, was
regarded as providing the President with the Power to order
the detention of people believed to be 'engaged in crimes
related to 'national security' without recourse to the
courts. These orders were known as Presidential Orders of
Arrest (POA) and Presidential Commitment Orders (PCO). But
in practice arrest and detention were commonly carried out
without POA or PCO and that the latter were issued without
reference to the civil judiciary.6 These practices were
apparently legitimised, which reaffirmed that in national
security cases people might normally be arrested and
detained only upon proper warrant issued by a judge but
added the provision that a military commander or head of a
law enforcement agency might apply to the President through
the Minister of National Defence for a PCO when resort to
judicial process is not possible or expedient without
endangering public order and safety.

The government had issued regulations governing the
identification of persons making an arrest, the times of day

during which an arrest may ordinarily be made and the degree of force which may legitimately be used in making an arrest. The code of conduct for PC specifies the circumstances in which an arrest may legally be made. Despite all these regulations, arrests were taking place on a large scale without observing the rules and regulations.

President Marcos had issued a Government Order creating a National Command\textsuperscript{7} for the Administration of Detainees (CAD) held under martial law regulations. CAD was described as 'the focal point for co-ordination and integration of government activities from national down to provincial level, involving the administration of all persons arrested or apprehended in connection with Presidential Proclamation No.1081'.\textsuperscript{8} Rules of CAD covered procedures for delivery of arrested persons to proper places of detention and for reporting arrests. These rules specified that an arrested person should be booked at the nearest AFP unit and then delivered to an Inquest Authority within between 18 to 72 hours, depending on the gravity of the alleged offence - 18

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\textsuperscript{7} G.O No.16 dated 16th November, 1972.

hours for light offences; 48 hours for 'less grave' offences; and 72 hours for grave offences. The government had also selected recognised places of detention under the CAD system. These were: stockades of PC provincial and regional headquarters, Camp Bagong Diwa, the PC national headquarters at Camp Crame, Metromanila; the Maximum Security Unit, Fort Bonifacio, Metromanila; and the stockade of the Intelligence and Security Agency of the AFP (ISAFP), Camp Aguinaldo, Metromanila. The rules also required the immediate reporting of arrests to the Minister of National Defence through the Commander of CAD.  

Prior to the lifting of martial law, it was announced that detainees held in military detention centres would be transferred to civilian prisons under the administration of the National Bureau of Prisons, (an agency of the Ministry of Justice) once martial law had been lifted. After 17 January, 1981, a number of political detainees were transferred to civilian prisons, though others remained in military detention centres. Some of those arrested after the lifting of martial law were also held under military

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administration. Detainees transferred to civilian prisons often faced worse prison conditions.\textsuperscript{10}

Though an extensive array of safeguards of the rights of the detainees was included in the 1973 Constitution, in General Orders and Letters of Instructions issued by the President, in the Revised Penal Code and in departmental directives and circulars hundreds of people were arrested and detained without charge or trial.

In 1984, the TFDP had reported that the number of arrests from 1977 to 1983 added up to 11,270. The figures having regularly increased since the onset of Martial law, showed a sudden upsurge in 1981. For 1984, arrests had gone up to 3,038, a nearly 70 percent increase from 2,088 in 1983.\textsuperscript{11}

The most common causes of arrests noted in several national and international fact-finding missions reports were the suspicion of membership in the NPA and/or knowledge

\textsuperscript{10} This was observed by a fact-finding mission sent to R.P by Amnesty International from 11-28 November, 1981.

\textsuperscript{11} Militarization and Human Rights Situation in the Philippines: Trends and Analysis, Published by thirteen human right organisations in the Philippines, 1984, p.11.
of support to dissidents, while others were support to the boycott of the National Assembly elections, participation in strikes and rallies protesting government policies, and possession of alleged subversive documents or firearms. Many of these arrests were made during actual military operations which were usually launched following NPA ambushes or raids.

There were also incidents where arrests were made because of minor incidents. An example was the case of an unidentified ICHDF member who was mugged by a group of civilians after he threatened to shoot them. The following day, a PC-ICHDF team came back to the barrio and beat the men responsible. Later the civilians were asked to go to the town hall and forced to sign papers making them responsible for harming the ICHDF member. They were again beaten and then released. In most cases, the alleged subversive documents found in the possession of those arrested were either planted or were actually other


13 Human Rights Situation... Trends and Analysis, op.cit., pp.10-11.
documents arbitrarily given the 'subversive' interpretation by the military.\textsuperscript{14}

People from all sectors of society were increasingly subjected to arbitrary arrests. These included peasants, students, labourers, human rights activists, church workers, journalists, etc. But the most common victims were male peasants aged between 20 and 50. Female victims, though relatively fewer, were made to suffer the same indignities as the males. Recorded cases showed that\textsuperscript{15} old persons and young children were arrested and physically harmed in instances where the real targets were actually put under arrest or when the suspects were not found, in which case they became the object of the ire of the arresting units.

Many victims of arbitrary arrests were also individuals accidentally encountered by marauding military elements in streets, in the fields or within the vicinity of camps, especially when there were military operations. In many cases, the civilians were severely beaten during interrogations and in some cases, their houses were searched

\textsuperscript{14} Ibid.

\textsuperscript{15} TFDP and EMJP systematically documented such cases from all over the Philippines through their wider network.
and burned. In the majority of cases, neither warrants of arrest nor warrants to search the private residences were presented.\textsuperscript{16} Not all persons arrested were placed in regular detention centres; there were also cases where they were released after undergoing interrogation, mostly accompanied by varying degrees of torture.

A thirteen member fact finding mission team, which visited various places in the Philippines in September 1984, to find out further evidences on the Philippine government's record of gross human rights violations observed the different situations and circumstances which usually occurred during arrest.

(1) Persons arrested are mauled, interrogated and threatened on the very spot of arrest but are not brought to camp, nor officially charged of anything;

(2) Persons arrested are brought to military safehouses or other out-of-the-way places where they are systematically tortured while being interrogated but are released without being brought to camp;

(3) Persons attacked are brought to a camp and systematically tortured while being interrogated but are

\textsuperscript{16} Victims personally narrated their experiences to this Researcher at the time of interview with ex-political detainees from different parts of the Philippines. (Ex-political detainees' state level Convention held at Manila on December 14, 1986).
(4) Persons arrested are brought to a camp, tortured and then allegedly released but are never seen alive again.

(5) Persons arrested are brought to a camp and systematically tortured while interrogated and detained for long periods of time without any official charges being filed against them;

(6) Persons arrested are brought to camp, tortured interrogated, detained and officially charged with subversion sedition and related crimes.

There were no apparent guidelines followed by arresting units but the pattern was one of abuse of personal rights in the course of arrest or during the period in which the person was under arrest. Arrests were made mostly by composite teams of soldiers coming from the different branches of AFP namely: Philippine Constabulary Integrated National Police (PC-INP), Army, Marines, Airborne and ICHDP. There were also many cases of allegations by individuals saying that certain persons were connected with

17 Human Rights Situation.... Trends and Analysis \textit{op.cit.}, p.11.

18 \textit{Ibid.}
the NPA elements. Most liable to be arrested were members of the families of persons known to have joined the NPA or have gone underground.

The government denied on several occasions that there were political prisoners, in one breath, and admitted there were in the next. In his world press conference held on 20 September 1974, the eve of the second anniversary of the proclamation of martial law, the President said that "the government has just released the last of the detention prisoners who are not facing criminal charges". The President further stated that he "issued a directive on his last birthday, 11 September, for the release of detainees against whom no charges have been filed in court although they are facing charges in the investigating body".

However, just three months later, in December 1974, the President announced on a nationwide radio-television address that he had just ordered the release of 822 political prisoners. In the course of his address the President stated:

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20 Ibid.
In our jail today, there are 5,234 people under detention, in direct consequence of the martial law proclamation. 4,089 of these are ordinary criminal offenders. 1,165 are political detainees. These include those charged under Republic Act 1700, otherwise known as the anti-subversion act of 1957.\footnote{21}

In the course of his testimony before the Subcommittee on International Organisations of the U.S House of Representatives in 1975, former Philippine Ambassador, Amelito Mutuc, stated:

> Regarding the charges that many persons have been detained for a long time without being charged, it would be worthwhile to note that a few weeks after the proclamation of martial law, about 30,000 persons were arrested and detained.\footnote{22}

In the light of these contradictory statements from the government and other reliable sources, it was impossible to get the real picture of the details on arrest and detentions. Mindanao had consistently been the area where the highest number of arrests occurred. Metro-Manila had been observed to follow this lead, with the rest of Luzon altogether came in third.


Torture

The word 'torture' is defined by the 'Declaration Against Torture,' adopted unanimously by the UN on 9 December 1975, as follows:

1. ...torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing for an act he has committed or intimidating him or other persons. It does not include pain or suffering arising only from inherent or incidental to, lawful sanctions to the extent consistent with the standard minimum rules for the Treatment of Prisoners.

2. Torture constitutes an aggravated and deliberate form of cruel, inhuman or degrading treatment or punishment. 23

For every victim who has undergone torture, the feeling of ceasing to be human is all too real. Human beings are not normally kicked, punched, beaten, locked in detention cells or placed in solitary confinement for no apparent reason. Neither are they ordinarily subjected to death threats, lengthy interrogations and harassment of loved ones. 24

23 UN Declaration Against Torture (1975), Article 1.

In the Philippines, torture usually began when the victim was arrested or abducted, often at night, at home or in a place where there were few or no witnesses. The arresting officers might be in civilian attire or in uniform but without name tags. They would introduce themselves as Police or military authorities. The arrest would almost always be without the necessary warrant and sometimes marked as an 'invitation' for questioning. There were also many instances when arrest was done violently to terrorize the victims family and neighbours into silence and helplessness.

There were several cases identified by national and international human rights organisations strongly indicting the Marcos administration of perpetrating tortures and other forms of maltreatment of political detainees. In 1983, the New York based International Lawyers’ Committee for Human Rights noted that, 'Barbaric forms of torture, usually applied during periods of incommunicado detention in secret holding places, had become standard operating procedure of Philippine security and intelligence forces. Persons seized as alleged subversives were beaten, suffocated, choked with
water devices, subjected to electric shock, burned, raped, and mutilated'. 25

Despite the denials made by the government about the numerous complaints of inhuman indignities suffered by the political detainees, accounts have piled up vividly illustrating the reality of such cases. Crude and sophisticated methods alike have been repeatedly mentioned by the thousands who had fallen victims to the military. 26 During interrogation, denials of accusations were almost instantly answered by blows. From kicks, punches and hitting with rifle butts, the torture graduated to more cruel techniques. Some of the more common methods practised in the Philippines were:

1. The 'ashtray' - the skin, usually of the face, neck and abdomen, is burned by cigarette butts.

2. Pulling off fingernails - sometimes the finger is afterwards dipped in acidic solution.

3. The 'Pompyang' (cymbals), known in other countries as 'el telefono' or 'golpes de campana' - slapping of both ears simultaneously, often causing a rupture of the eardrums if done repeatedly or with great force.


26 Human Rights Situation .... Trends and Analysis, op. cit., p.13.
4. The water cure, known locally as 'NAWASA' (former acronym of the waterworks system) - gallons of water are poured into the victim's mouth and nostrils inducing a feeling of drowning. Sometimes the face is covered with a piece of cloth or a towel and muddy water is used. Other times, carbonated drinks are used in place of water.

5. 'Wet submarine' - the victim's head is submerged in water or soiled toilet bowl. The effect is similar to the water cure.

6. 'Dry submarine' - a plastic or cellophane bag is used to cover the victim's head, causing suffocation.

7. Electrocution, known locally as 'MERALCO' (the government-controlled electric service company) - electric prods or wires attached to ordinary household current are applied to the victim's body, usually the genitals.

8. Russian roulette - the cylinder of a revolver loaded with a single bullet, usually a dud, is spun and the trigger pulled the moment it stops.

9. Solitary confinement - the prisoner is isolated in a cell, usually cramped and with poor ventilation. Social contact even with fellow inmates is forbidden. Some detainees have been subjected to extremely prolonged military detention.

10. Psychological or mental torture - this is said to be one of the worst forms of torture. The victim is told that if he does not cooperate with the torturers, harm will come to the victim's family, for example his wife will be raped or the children killed.²⁷

²⁷ Black Book Project Committee, Testimonies...
In the Philippines, variations of these tortures were practiced during the Marcos era. In the Philippine context, torture did not appear as isolated acts of violence committed by undisciplined military personnel, but was part of a systematic scheme for suppressing dissent.

Torture exist not only because there are tortures, but because there are authoritarian governments that spawn unjust social systems. These authoritarian governments, with their myopic viewpoints see torture as necessary in order to suppress legitimate dissent and, in the process, consolidate their hold on power. They use not only torture, but also other forms of violence, creating a system that institutionalizes the use of force for the purpose of stifling the voice of the people.

Not surprisingly, torture techniques in the Philippines were similar to those taught and practiced by U.S soldiers during the Vietnam war, and those also used by other repressive regimes in Asia and Latin America. In the Philippines torture technology was imported and channelled through the U.S military centres under the International Military and Education Training (IMET) agreement and other

28 Ibid.
such military assistance pacts between the U.S.A and the Philippines. In 1979, during his Philippine tour, former U.S.Attorney General, Ramsey Clark, found torture equipment at the AFP Intelligence Service Headquarters in Camp Bago Bantay. When he confronted the officers with the presence of such equipment in the military camp, Col. Pedro Balloanero was quoted as informing Clark that he had learned the techniques in Fort Bragg and other key military training schools in the U.S.A.29

Like all other repressive authoritarian regimes in the Third World, the Marcos regime did not acknowledge the practice of torture in extracting information, even though most political detainees had undergone cruel treatment at the hands of the military personnel.

Disappearances

A 'disappearance' is the seizure of a person by government or their agents. Amnesty International considers that a disappearance has occurred wherever there are reasonable grounds to believe that a person has been taken

29 Ibid.
into custody by the authorities, or with their connivance, and the authorities deny that the victim is in custody. 30

A Filipino political analyst defined disappearance as "a tragic term used to describe the equally tragic situation of persons detained presumably by security forces or paramilitary groups and whose whereabouts are unknown to family, friends or lawyer". 31

Disappearance happens because a government is nervous and uncertain about its authority; this is often because it has seized power by force, without observing proper democratic processes. The pattern is then set to hold on to power by force and by intimidation. People critical of the government's policies and systems are seen as a threat to be eliminated.

In the Philippines, the phenomenon of 'disappearance' was introduced after the declaration of martial law in 1972. Cases of disappearances generally practiced in


the Philippines fall under five categories. In the first category, a political detainee normally arrested without an appropriate warrant, or with a Preventive Detention Act issued by no less a person than Mr Marcos, is kept in complete isolation for a period ranging from weeks to several months before he is surfaced in one detention centre or another. His family, during such period of isolation, cannot locate his whereabouts and the military authorities normally deny having the person in their custody.

In the second category, a political detainee arrested under circumstances where there are no witnesses, or where witnesses cannot positively identify the arresting persons, is never found again. In the third category, dead bodies of political detainees or political dissenters are found in some isolated spots. This method of disposing of an unwanted prisoner or political dissenter, often after heavily torturing him, is called 'salvaging' by the military and the police.

In the fourth category, political detainees are declared by the military to have been 'released' but are

nowhere to be found. In yet another category, the fifth, political dissenters are killed outright and their bodies are disposed of to hide any evidence of military brutality.

These kinds of 'disappearance' technique were systematically practiced in the Philippines. If total 'disappearance' was not a matter of government policy, there were ample indications that temporary 'disappearance' was, at least, standard operating procedure (SOP) used for certain political detainees. It had been noted that in many cases, military intelligence and operating units holding newly arrested political detainees prevented relatives and lawyers from seeing their imprisoned kin or clients for a number of weeks, or even months. This even after acknowledging either privately or publically that the persons concerned had been arrested and were in military custody. There had been cases, however, where the military authorities and even top officials of the Ministry of National Defence consistently denied having in custody certain political detainees who were surfaced after some lengthy period.

The practice of temporary disappearance violates President Marcos' own order, made through Defence Minister
Juan Ponce Enrile, that the family of any person arrested be informed of the arrest within prescribed periods. 33

In many cases of arrests under General Order No. 60, Letter of Instruction No. 621 issued by President Marcos on October 27, 1977 also had been violated. 34 The phenomenon of 'disappearance' became an established trend in the Marcos era. In 1984, TFDP observed that

If (the practice, policy of 'disappearances') seems to reflect a systematic scheme of the government to seek information on suspected subversives while the victim is incommunicado, or to eliminate political dissenter without going through the tedious process of effecting arrest and detention. Moreover, the absence of the victims bodies could provide a convenient shield against possible charges of culpability for such crimes. 35

The military and the paramilitary wantonly ignored the Presidential Directives and the disappearance phenomenon was at a high rate. The overall statistics recorded by the TFDP from December 1975 to December 1985 substantiates this fact.

33 General Order No. 60, June 24, 1977, (Government Political Crimes) The prescribed periods mentioned were 48 hours if the arrests were made in Metro Manila, and 72 hours if made in other places.

34 FIND, op. cit.

Within that period of time 1209 people disappeared with no evidence of death.

Table - 5

PEOPLE DISAPPEARED DURING 1975 - 1985

<table>
<thead>
<tr>
<th>Year</th>
<th>Metromanila</th>
<th>Luzon</th>
<th>Visayas</th>
<th>Mindanao</th>
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<td>3</td>
<td>4</td>
<td>-</td>
<td>7</td>
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<td>1976</td>
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<td>41</td>
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<td>17</td>
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<td>7</td>
<td>2</td>
<td>10</td>
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<td>2</td>
<td>17</td>
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<td>19</td>
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<td>158</td>
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<tr>
<td>1985</td>
<td>1</td>
<td>15</td>
<td>46</td>
<td>82</td>
</tr>
<tr>
<td>Total</td>
<td>24</td>
<td>215</td>
<td>363</td>
<td>602</td>
</tr>
</tbody>
</table>

Source: Task Force of the Detainees in the Philippines Documentation Statistics

It is not surprising that the usual targets for 'disappearances' were the poor and the middle classes of Philippine society. In Metro-manila, the premier and largest urban area in the country, the victims of disappearances were often student activists and professionals. In other regions, those who disappeared were
peasants, trade unionists, etc. Denial of accountability by the authorities, and lack of information about the disappeared person's fate and condition, were factors which make a disappearance a cruel and inhuman punishment for the disappeared person's family. Although the writ of *habeas corpus* had many times been invoked by the families of the disappeared, once the military denied arrest and custody of the victim, this remedy failed and the Supreme Court again proved its powerlessness.

'Salvaging'

In the Philippines, the word 'salvage' has a meaning different from its lexicon definition. The dictionary defines the word salvage as an act of saving from shipwreck, fire or the like. But in the human rights jargon in the Philippines, it means the exact opposite: it refers to the atrocious practice by the police, the military and paramilitary of 'eliminating' suspected enemies of the State or even innocent civilians. The term 'salvaging' is coined by the military for liquidating or disposing of an individual who is considered a threat to 'national security' or 'public order'. It has become a synonym for the local term for extra-judicial killings by the military.
Although military and civilian authorities have officially disowned and denied the practice of salvaging, it is nevertheless widely believed that salvaging was covertly sanctioned by the government. This belief was mainly founded on the fact that military men responsible for salvaging were rarely, if ever, punished. The salvaged victims were often dumped in watery graves, or impaled like pigs ready for roasting, beheaded, mutilated (ears are cut off and strung together as evidence of killings) or burned.\footnote{In the face of adversity, (Holland: Komite ng Sambayang Pilipino, 1982), p.13.} Victims were usually passed off as casualties of ‘encounters’ (armed clashes between government troops and the NPA guerillas), even if there was ample evidence to prove otherwise.\footnote{Black Book Project Committee, \textit{op. cit.}, p.14.} The number of salvaged victims continued to grow as the Marcos regime desperately hung on to power by intensifying militarization.

TFDP had documented the consistent rise in the number of salvaged victims nationwide since 1977. From 51 victims in 1977, the figure rose to 368 in 1983 and 538 in 1984.\footnote{Ibid.} It added that since 1977 until 1983, there were no less than
1998 victims. The steady increase according to TFDP, is inversely proportional to the number of individuals detained on political grounds. This comparison referred to the number of salvaging cases and the number of long-held detainees, or those detainees who had been under detention for more than one year. According to a TFDP staff member, 'this was so because government saw salvaging as less cumbersome than detaining suspected political offenders, which might even create legal entanglements and political embarrassment. Simply calling victims 'rebels' justified the killings. After all, the dead tell no tales. 39

The process of 'salvaging' plagued the entire country, although there were more cases of salvaging in highly militarized areas, particularly in Southern Philippines. More than half of the total cases of salvaging occurred in Mindanao. Salvaging affected all sections, irrespective of age, sex, civil status, religious affiliation, employment, profession, or socio-economic status. According to the evidences of the reported cases of salvaging, victims were farmers who lived in an area which the military considered 'rebel-infested'; workers who participated in a strike to demand just wages; students who opposed annual tuition fee

39 Ibid.
increase; priests or pastors who concretized their faith by social action; human rights activists who worked to promote and protect the rights of their fellow citizens; politicians who opposed the rule of Marcos, etc. In most cases, the military and paramilitary personnel involved remained unidentified. In cases where the military men responsible for the liquidation had been identified, witnesses to the murder were often harassed and intimidated into keeping silent. In 1984, a commission appointed by national human rights organisations to study the Philippine government's record of gross human rights violations stated that, 'while the report was being prepared, a journalist, a lawyer, a human rights advocate and a city mayor were killed in separate incidents. All had been prominent critics of the Marcos regime'.

The victims were mostly community leaders critical of the government. The killings were done to instil fear in the local people, and to be a warning to them against supporting the anti-government forces.

Massacres

Mass murder, often in the specific form of open massacre, perpetuated against ordinary peasants - men, women, and children. The commission appointed by national human rights organisations to study the Philippine government's record of gross human rights violations stated that, 'while the report was being prepared, a journalist, a lawyer, a human rights advocate and a city mayor were killed in separate incidents. All had been prominent critics of the Marcos regime'.

The victims were mostly community leaders critical of the government. The killings were done to instil fear in the local people, and to be a warning to them against supporting the anti-government forces.

40 Human Rights Situation .... Trends and Analysis, op. cit., p.4.
women, children - young and old alike - gave further evidence of the increasing blatancy and ruthlessness with which the regime was presently pursuing its policy of preserving national security. The increasing frequency of massacres indicated an emerging pattern rather than their isolated incidence.

In several of the cases mass murders occurred where there was strong resistance or where economic interests were at stake. They were committed by both the military and paramilitary groups and perpetrated in the name of 'public order'. This often camouflaged the underlying economic reasons for the massacres.

The massacre in Masaymon, Southern Leyte on March 23, 1982, was a clear evidence of this. Nine people were killed by the PC, their ages ranging from 3 to 18 years. The fact-finding mission to Leyte in the wake of the massacre, linked the massacre with the military's five-year old counterinsurgency campaign in the area. Militarization began there as far back as 1976, coinciding with the implementation of the Imelda Resettlement Project in the region. In that year, the land of about fifty thousand

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families was declared 'forestal' land by the Ministry of Agrarian Reform, and was taken over for resettlement sites. The families were offered three hectares in compensation. However, some of the project sites were actually not forestal areas and had long been cultivated. The other anomaly arose from the reported presence of gold and copper ores in the project sites, a development that aroused suspicions about the project's 'ulterior economic motives'.

These suspicions were given credence when a German mining firm arrived in 1981, and conducted tests in the area. Protests began as early as 1976. Immediately, the iron arm of the state became evident. The massacre of nine people was just one further step in the regime's policy of repression in the area.

Massacres of active rebel supporters in hotbed rural areas in Mindanao were considered desperate moves by the military after several vain attempts to contain and trap the hit-and-run guerillas who were often times given shelter by the civilians. Ordinary citizens were thus repressed with impunity and even children and pregnant women were not spared. There was an average of two to three massacres a

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42 Ibid.
month according to the data gathered nationwide. In Mindanao alone, where 77 percent of the massacres occurred from January to October 1984, victims totalled 158, nearly equalling the figures for 1983 which had a total of 28 massacres and 159 killed.  

Bombing, Strafing and Burning

Mass abuses and violations of human rights were further heightened by the more frequent resort to methods of warfare. In what was reminiscent of the Vietnam war, villages were bombed, strafed or shelled in an effort to terrorise the population and flush out the NPA guerillas. Mindanao in particular, had suffered from the escalation of violence against the people, which was tantamount to open warfare.

In 1983, fifteen bombing incidents were recorded in Mindanao with a total casualty of 73 civilians while 102 persons were killed in a total of 47 incidents of strafing. For the first half of 1984, a total of 54 persons were killed and 35 wounded in Mindanao.  

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43 Human Rights and Militarization... op. cit., p.8.

burnings occurred mostly in the provinces of Lanao del Sur and Agusan del Norte, both in Mindanao.

Strafing incidents were reported even in areas outside of Mindanao - in Nueva Ecija, the Cordillera and in Samar. In Batan, for example, on January 7, 1982, certain elements of the PC and the military secret unit strafed a house in barrio Wakas, Pilar following an intelligence report that subversives were hiding in the house. Five suspects reportedly went out of the house to surrender but were herded back to the house where they were killed. The military claimed that it was an 'encounter'.

Bombings took a more sinister turn with the use of chemical bombs. The Philippine government vehemently denied the use of chemical warfare in their counterinsurgency operations, but the survivors of Landengan, Lanao del Sur have attested to the various effects these new types of bombs had had on them. They had been exposed to enough bombings to know that conventional bombs were not the ones dropped on them those days in August. Survivors described the controversial chemical bombs as contained in red canisters which burst into flame upon touching ground and

45 Human Rights Update, (Manila), March 15, 1982.
that the victims experienced stinging pain as if they were pierced with needles, coupled with itchiness.\footnote{Peace is an illusion, (Manila: Gabriella), Unpublished Report}

Burning of houses in the barrios was conducted in several areas. Barrangay Camp Cuevas a peasant village in Eastern Samar witnessed the burning of 12 houses on February 20, 1983 by a platoon of soldiers reportedly belonging to the 59th BCT.\footnote{"Arson and other Crimes in Counter-insurgency", Katarungan, (Manila), Vol. III, No.IV, August-October 1983.} The same 59th BCT burned down 36 houses in the village of Caga daha, near Guinapundan town.\footnote{Ibid.} The burnings appeared to be a calculated military move to discourage civilians from supporting NPA rebels.

The latest trends, from individual salvaging and massacres, to the more frequent resort to tactics like shelling and strafing indicated that the militarization drive had shifted gears and that the people were being subjected to more and more intense repression.

8. Strategic Hamletting and Mass Evacuation

Strategic hamletting is a military practice of grouping together village residents for the purpose of isolating the
insurgents and depriving them support of the population. By persuasion or coercion, families are made to live inside village clusters which were closely monitored by the military.

Strategic hamletting was a policy widely employed by American military advisers in Vietnam. In the end, it was proven to be a failure because it was not able to deter the growth of insurgency in South Vietnam. As a failed strategy, it was again applied in the Philippine counter-insurgency effort even as military and government authorities continued to deny it. The policy of hamletting was euphemistically referred to by the military as 'reconcentration', 'grouping' or 'live in'. The rationale behind the scheme, according to the military, is the 'mutuality of security', meaning that in hamlets the people and the military can work together for their own 'protection'.

In Vietnam, a strategic hamlet was a virtual military camp. It was fenced in and guarded by armed civilians to discourage infiltration. But somehow, the insurgents infiltrated the population. In the Philippines, hamletting was done through threats and coercion, and the population was subjected to atrocities and many forms of harassments,
ranging from zoning to outright artillery bombing. Terrorized, the people were forced to flee. The primary reason for the strategy from the military viewpoint was to dismantle the mass base of the New People's Army and deprive them of their source of logistical support.

The hamlet centres were established in places designated by military officials. Usually, the evacuees were placed in School buildings and village centres. In many cases, like in Laac, Davao del Norte in 1981 and in Zinu dungan valley, Cagayan in 1982, the people were made to construct small bunk houses made from bamboo. Curfew was imposed and travel in and out of the hamlet was controlled. Vacated villages were sealed off by the military and were declared 'free-fire zones'. In these places, anyone could be shot at sight.

The policy naturally affected the lives of the ordinary people adversely. Every day they were forced to walk miles from the hamlet centres to their farms. Safety passes were required every time they left the hamlet. A curfew from dawn to dusk was imposed, giving the rural folk less time to

attend their farms. Anybody caught violating the curfew was automatically considered a rebel and could be shot at sight. Under such tense conditions, the farmers themselves often refused to go to their land for fear of being attacked by military men or mistaken as rebels. There have been instances where farm lots were declared by the military as "free fire zones" or "no man’s land". 50

The entry of food into the hamlet was also severely restricted. Each family was given a quota of food and any excess was confiscated to prevent it from reaching the rebels. The meagre food in the hamlets had to be shared with the military and paramilitary troops and their families. 51 These strict rules imposed by the military made starvation a stark reality in hamlets. Lack of nutritious food weakened the body, made it susceptible to diseases. Unsanitary living conditions, triggered outbreaks of epidemic diseases. Children were often the first victims. In the Sitio of Tibulo, Sta Cruz, Davao del Norte, a fact-finding mission reported 40 deaths from various illnesses

51 Ibid.
since the Sitio was hamleted in 1981. Many were said to be dying at that time without medical attention.

Life in the hamlet was not only miserable but also fraught with fear and insecurity. The residents were constantly under the observation of armed soldiers. Soldiers used to fire their guns, especially when they were drunk, creating fear and anxiety among the people staying in the hamlets. A human rights activist from Zambonga del sur, Mindanao, who had stayed in a hamlet centre told that "they were forced into ridiculous situations like, being exhibited as NPA surrenderees in front of the press reporters and photographers."^53

A 'Commission of Human Rights and Due Process of the Integrated Bar of the Philippines' conducted a probe on the reported hamletting in Davao del Norte. The commission observed the fact that

1. The act of ordering people to transfer their homes to a "grouping" area under implied threats of being treated as an enemy, and restricting their

\[52\] Fact Finding Mission Reports - 1982, EHJP, (Mimeographed)

\[53\] Interview with a human rights activist who had experiences in hamlet centres. (November 1986 at Mindanao)
freedom of movement, violates the constitutional
inghts to liberty of abode and travel (1973
Constitution, Article 4, section 3)

2. Requiring the people to demolish and dismantle
their homes is taking private property without
compensation, and violates the constitutional right
not to be deprived of property without due process
(1973 Constitution, Article 4, section 1, 2)

3. Requiring people to construct PC barracks and
contribute materials for the same violates the
constitutional right against the involuntary
servitude. (1973 Constitution, Article 4, section
14).

The issue became widely publicized due to the
persistent protest by the human rights groups.

Marcos government adopted the policy of strategic
hamletting as early as 1972, after the martial law was
declared and U.S trained military personnel implemented it
since then. Isabella, Abra and other areas in Northern
Luzon became the testing ground for hamlets 'Filipino
Style'. Thousands of peasants were driven away by the PC
from their homes and fields, and resettled in refugee camps.
In Isabella alone, provincial officials estimated that
50,000 barrio folk were forced to abandon their meagre
belongings, crops, animals and were turned into refugees and

54 Report of Commission on Human Rights and Due Process
of the Integrated Bar of the Philippines, (Visit to Devao
del Norte, February 1982), p.9. (Mimeographed)
nomads within one year. According to the Department of Social Welfare Annual Report for 1973-74, there were 1.9 million 'evacuees' as a result of government's hamletting process. Areas selected for forced evacuation were areas of NPA and MNLF activities.

Peasants union and human rights organisations documented and classified cases of hamletting connected with agribusiness. What had led the farmers and human rights advocate to suspect that the real reason for the intensification of militarization through hamletting was the intention to take over of control of their lands for plantations. For instance, Col Alejandro Cruz of the 37th Infantry Battalion informed the residents of San Antonio, a remote barrio of San Vincente town, before they were hamletted in 1981, that a 900 hectare portion of their barrio would be cleared and planted with ipil-ipil and rubber trees. The same thing happened in several other places, residents were driven off from their ancestral land

56 "An Old Tactic Revived: Strategic Hamlets", In the face of adversity, op. cit., p.18.
57 Ibid.
by the military and the lands later occupied by foreign agribusiness companies.58

In 1984 July, the areas surrounding Anticala and Pianing in Butuan city, Agusan del Norte were pounded by heavy artillery and mortar fire for six hours.59 The bombing forced some 1000 families to evacuate immediately, leaving most of their belongings including crops and livestock. It was learned that, a foreign corporation interested in the rich coal and Manganese deposits as well as a soil used in cement production, had surveyed the area. In several other areas also the hamletting strategy was designed as part of a larger scheme to transfer land to MNCs.

There were certain changes in the military's tactics in some areas. Instead of ordering the people outright to relocate themselves to a particular place, the people themselves were compelled to leave their homes because of violence or the threat of it. Forced evacuations resemble hamletting to a certain extent. Residents are forced to

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58 This Researcher visited some of the Pine-Apple plantations in Mindanao owned by Japanese MNC's, previously owned by local peasants.

vacate their lands in both cases. The difference, however, was that in hamletting there were specific orders from the military, sometimes implemented by local officials, for the people to resettle in a designated area while, in the case of forced evacuations, there were often no direct orders to vacate. Mass evacuations of these types were triggered mainly by four reasons: 1) harassment and intimidation of the residents by the military; 2) intensified military operations like bombings and strafings; 3) clashes between the guerillas and government troops; and 4) violent incidents like massacres or 'salvagings'.

Psychological operations or 'psy-ops' played a significant role in mass evacuations. By sowing fear through threats and by manifest violence, residents were made feel that they had no other recourse but to evacuate and seek refuge in other areas. In January 1985, the entire Sitio of San Juan, Mortones, Tarlac in Central Luzon was vacated by its residents after a series of 'salvagings'.

Another growing trend was imposing food blockade and restricting the mobility of the residents. This was different from hamletting and forced evacuations in the

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60 Black Book Project Committee, *op. cit.*, p.141.
sense that instead of being compelled to abandon their houses, residents were restricted from leaving their locality. A food blockade was imposed purportedly to starve the rebels.


Since the declaration of martial law by President Marcos in 1972, militarization and human rights violations had risen to unprecedented heights. The Philippines was fast becoming a country where the cheapest commodity available was human life. Militarization, manifested mainly in acts of violence against civilians, had had its most telling effects in the countryside where majority of the Filipino people live. The Marcos regime resorted to the use of military force as the principal means to contain and stop any form of unrest. As a result of this a systematic militarization of civilians was in full swing. It was reported that official complaints of military abuse were logged at the rate of 54,000 a year. That is, one of every two soldiers committed an abuse. That did not include a number of unreported cases. 61

The military's presence and involvement in every facet of society was pronounced and its abuses and excesses ruthless. The concept 'an iron hand in a velvet glove', was a double-edged sword slashing at the people's mounting opposition. The blunt edge represented political repression and wholesale denial of basic human rights. Militarization constituted the piercing, deadly edge wielded through the military's guns and goons. The government and the military, despite the strong protests of national and international human rights groups and advocates, escalated its programme of militarization nationwide, causing great suffering and misery to the people.

9. Philippines Legal systems and violations of Human Rights

The Philippine legal system had drawn upon the experience of many systems. Its civil law had a heavy dose of influence from the Roman law, transported to Philippine shores by Spanish administrations. Prior to 1972, the government followed the American pattern of having a tripartite division of responsibility among the executive, legislative and judicial departments and which featured a

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workable system of checks and balances that effectively precluded totalitarian rule. The constitution then in effect also provided for a host of basic liberties and freedoms for the citizens that was designed to be a hedge against governmental power. As in most western models, the Philippine constitution made provision for vast emergency powers exercisable by the executive in situations of great danger to the continued existence of the Republic such as invasion, insurrection, and rebellion.

In 1972, Marcos formally declared martial law allegedly to forestall a state of anarchy and disorder fomented by the communists and Muslim rebels. Marcos used the martial law decree to close down Congress and to jail all opposition politicians, leaders of people's movements, journalists, etc. In the new climate, a new constitution was ratified in 1973, albeit through a process which took no measure to protect the sanctity of the ballot or integrity of the plebiscite. Thereafter, the constitution was amended several times to modify the new parliamentary system and to consolidate the powers of the presidency. The most important of such amendments was Amendment No.6 which

63 Human Rights Situation and Militarization..., op.cit., p.15.
granted the President unconditional power to legislate, even while the legislature itself was in session.

President Marcos vested upon himself, under Presidential Decree (PD) No.1177 as amended by PD No.1777, the authority to propose and approve the national budget allowing himself to enlarge and arm the AFP with a budget ten times more than that for education and health.64 Likewise, starting from the imposition of martial law in 1972 to the end of his rule in 1986 February, the President was careful to ensure power to cause the arrest and detention of persons for whatever cause, or even without any stated legal cause.

Violation of Right to Life

Article 3, of UDHR proclaims that: "Every one has the right to life, liberty and security of person". The government must take responsibility for protecting the lives of individuals whoever they are, and also protect the lives of whole groups of people. It must prevent unlawful killing, assassinations and massacres, etc. But in the Philippines the situation was entirely different. During

64 Ibid.
the martial law years, the President gave himself the power to issue Arrest, Search and Seizure Orders. After the lifting of martial law, the President continued to suspend the privilege of the writ of *habeas corpus* in two regions of Mindanao and throughout the Philippines in connection in cases of invasion, insurrection, rebellion, and similar offenses against 'national security', and in this connection provided for the issuance of Presidential Commitment Orders (PCOs). When public opposition to PCO became vehement and widespread, the President was forced to abolish it. But he introduced a substitute - the Preventive Detention Act (PDA) which was equivalent to PCO in all respects.

The first national conference of seventy human rights organisations in the Philippines condemned the human rights violations being carried out by the Marcos regime and stated:

*We strongly denounce the Marcos regime's blatant disregard for the people's rights even as we firmly condemn the unabashed collusion of the U.S government with the Marcos regime... We assert and uphold as inviolate the rights of the people to live, to be free, to be human. As it has been stated, human rights, like food, are universal. Human rights, like life, are unalienable. Human rights, like body, are indivisible and whole. Whenever any government becomes destructive of*
these, it is the right of the people to resist and provide safeguards for their security.

Atrocities committed by the military and paramilitary saw an alarming escalation. 'Disappearances', extra-judicial killings, massacres, etc., launched by the military are clear cases of violation of Right to life. When a person 'disappears', further human rights standards may also be violated, although as the fate of the prisoner is unknown, no-one can be sure which ones. Further safeguards are spelt out in the United Nations Standard Minimum Rules for the Treatment of Prisoners. Principle 92 of the rules confirms the right to know of untried prisoners to inform their families immediately of their detention. Principle 7 confirms the obligation of the authorities to enter details of prisoners in a registration book. In other words, families have the right to know the fate of their relatives.

Article 5 of UDHR says: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment". In the Philippines, thousands of cases of torture by the military and paramilitary have been identified. A Convention on Torture and Other Cruel,

Inhuman and Degrading Punishment was drawn up in 1975. This, together with the UN Standard Minimum Rules for the Treatment of Prisoners, laid down the guidelines for the way people in prison should be treated. But Marcos regime never bothered about those legal standards. For every victim who had undergone torture, the feeling of ceasing to be human is all too real. Human beings are not normally kicked, punched, beaten, locked in detention cells or placed in solitary confinement for no apparent reason.

In the Philippines, torture was a common phenomenon and it violated the rights of hundreds of thousands of people over the years.

Violation of Right to Freedom

Article 9 of the UDHR proclaims "No one shall be subjected to arbitrary arrest, detention or exile". This is the first of three articles dealing with the most fundamental legal safeguards: Freedom from arbitrary arrests, the right to a fair and proper trial, the right to be presumed innocent until proved guilty. Each is essential to every legal system.

66 UDHR, article 10.
67 UDHR, article 11.
In the Philippines these legal measures were not observed and illegal arrests, detention without trial, etc., were a common scenario throughout the authoritarian rule of Marcos. Those who were arrested and detained had to spend years in prison and military camps without trial, in most cases. Apart from the other different ways of dispensing justice, the military set up its own courts to give exemplary punishment to dissenters of the government. These courts were really a mockery of justice.

The right to a fair and proper trial means that everyone must be granted a fair hearing in court by an independent and impartial or unprejudiced tribunal, whether in a civil dispute or a criminal case. The essential requirement is that every one must have a fair chance to state his or her case. The provisions of article 11 of UDHR lay down certain important principles which provide the minimum standard for a fair trial.

1) The presumption of innocence: No one charged with a criminal offence should be treated as guilty until guilt has actually been proved. 2) The right to a defence: Those charged with an offence must be allowed lawyers to represent them if desired, and proper ways to establish their innocence, including the right to call witnesses. 3) The right to a public hearing: 'Justice should be seen to be done'. People can have no confidence in the law unless it is applied openly so that everyone can
see how the legal machinery works. 4) New laws cannot reach backwards in time: If a new law is enacted or a change made, no one may be charged or punished for breaking it if his or her actions took place before the changes in the law came into force; nor may a heavier punishment be added later. 68

Since 1972, Marcos regime used repressive measures to arrest and detain political opponents on a large scale. Many were never charged with any offence or tried. They were arrested or kept in prison, not because they were criminals but because they held views that the government did not like.

C) Violation of Right to Freedom of Opinion and Expression

"Every one has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers". 69 Freedom of opinion and expression was stifled severely in the Philippines. 'Subversion' and 'national security' were the usual excuses used by government to justify such stifling of proper human communication.

69 UDHR, article 19.
At the inception of Martial law, President Marcos closed down all mass media and transferred possession of their facilities to his close supporters. Only supportive media were allowed to exist. It was also at this time also that the law designed and enacted to punish the offense of "rumour-mongering” 70 was promulgated. Through another legislation, the President decreed mere possession of "subversive materials" punishable by jail sentence. 71 This law was designed for penalizing the printing, possession, distribution, and circulation of certain leaflets, handbills and other propaganda materials.

Since the rights defined in UDHR and Declaration on the Freedom of Information are the rights which provide the tool for securing and protecting all other fundamental rights, they are of great importance. But in the Philippines, these rights were denied to the people. So, the rulers could ultimately shackle people's thoughts and opinions.

Violations of Right to Freedom of Assembly

UDHR says; "Everyone has the right to freedom of

70 Presidential Decree No. 90; on Rumour - mongering.
71 PD. No.33.
peaceful assembly and association." Like all other authoritarian regimes, Marcos also restricted the people's freedom of association, and such restriction was often in the form of repression. All forms of organizations and public assemblies designed for political purposes were banned. A day following the imposition of martial law, President Marcos issued an order which prohibited rallies, demonstrations and 'other forms of group actions by persons within the geographical limits of the Philippines'. This included strikes and picketing in what was vaguely described as 'vital industries'.

PD No. 1804 was introduced to prohibit and penalize the granting of permits for holding public rallies, demonstrations, assemblies, and similar meetings to persons found guilty of rebellion, sedition or subversion who had not been charged with any kind of crimes.

The military used these laws to prevent people from participating in any kind of anti-authoritarian campaign.

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72 UDHR, Article 20, Part 1.
73 General Order No.5 By President of the Republic of Philippines, September 23, 1972.
Violation of Right to Work

Everybody has the right to work, to choose work freely and to receive payment for it which allows one and his family to live decently. UDHR specifically describes these rights in the following way:

1) Every one has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

2) Everyone, without any discrimination, has the right to equal pay for equal work.

3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

4) Everyone has the right to form and to join trade unions for the protection of these interests. 74

Conditions of work and the rights of workers are monitored each year by the ILO which reports on the ways in which each nation is or is not, following its detailed recommendations in support of this article.

In the Philippines, the rights of the workers became all the more prejudiced. Presidential decrees were promulgated that further restricted and suppressed their

74 UDHR, article 23.
political and economic rights. Through PD No.143, Marcos administration abolished Sunday as a compulsory rest day for workers. This decree allowed employers to operate seven days a week without paying for overtime work by staggering the workers' rest days during the week. It also had the effect of restricting union activities which were usually held on their common days—Sunday, and/or PD No.823 reiterated the total ban on strikes as well as concerted work stoppages, slowdowns, mass leaves, sit-downs and all other means that the workers employ to press their demands. The decree further prohibited all kinds of help or assistance to the workers from foreign or local sources without the written consent of the Ministry of Labour.

Many of these laws were framed for exploiting workers for the benefit of TNCs and other economic interests. This had some outstanding aspects, namely, limiting the right to mass organisations, inadequate response to workers' demands, maintenance of the casual work system, payment of abysmally low wages, etc. Collective bargaining power of the workers was destroyed through different black laws introduced from time to time. These violated the right of the people to work, better wages, better working conditions, and trade union activities.
Violation of Right to Property

Ownership as a human right appears most obvious and straightforward in principle and in practice. The UDHR says, "everyone has the right to own property... No one shall be arbitrarily deprived of his property." 75

The expansion and widening of the hamletting policy and forced evacuation made it impossible for the majority of the rural folk to own and cultivate their own land. The military was used to evacuate forcibly the peasants from their land, thus providing assistance to the TNCs to engage in agribusiness.

Violation of Right to Equality and Social Security

The laws of the land should treat all citizens in exactly the same way, whatever race, sex or colour they are, and whatever religions, political or other opinions they have. UDHR says:

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. 76

75 UDHR, article 17.
76 UDHR, articles 7 and 2 also hold the same views.
Appropriate social and cultural conditions are necessary for the full development of every person in any society. In reality, most of the people in the developing countries are being denied these rights by those who are wealthy and powerful. The wealthy and powerful people in society have access to use the law for their own convenience. Supplying only the material needs of people is not enough. To secure the dignity and well-being of people, fairer social structures within each state and co-operation between states is essential. UDHR states:

Everyone, as a member of society, has the right to social security and is entitled to realisation, through national effort and international co-operation and in accordance with the organisation and resources of each state, of the economic social and cultural rights indispensable for his dignity and the free development of his personality.\(^{77}\)

Inhuman living conditions such as poverty, poor health conditions, malnourishment, starvation, lack of medical facilities, lack of facilities for education, etc., prevented the majority of the Filipinos from enjoying the right to equality in society as well as the right to social security. All these have been the result of unjust socio-

\(^{77}\) UDHR, article 22.
political and economic systems operating in the Philippines. This system was designed for economic domination and exploitation by the few and for the few over the many.

Militarization: Process of Violating Humanitarian Law - the Right of Combatants

The UDHR (1948) was the first catalogue of the human rights which men are entitled to have respected. These rights were more specifically enunciated in the two International Covenants on Human Rights adopted by the United Nations in 1966 - the International Covenant on Civil and Political Rights was signed by the Philippine government on its adoption in 1966; the International Covenant on Economic, Social and Cultural Rights was ratified by the Philippine government in 1974. The rights contained in these instruments are those rights which customary international law now recognizes as the essential and basic right of every individual. Heading the list are the rights concerned with physical integrity - the right to life, the right to liberty and security of person and a prohibition against torture.

Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.... In countries which
have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime.... The penalty can only be carried out pursuant to a final judgement rendered by a competent court.\(^7\)\(^8\)

In view of what has happened in the Philippines during the Marcos era, it is like an exercise in cynicism to reiterate the law of human rights. The problem, of course is one of enforceability. Laws are enforced in national jurisdictions because there are police forces and courts to enforce them; in the international jurisdiction, it is a question of finding a machinery of enforcement which is acceptable to the members of the U.N. Both the Covenants have a 'reporting' procedure which enables adherence to them to be supervised by the U.N. But before the reporting mechanism can operate, the Covenants must be ratified by the governments in question, and as the Philippine government has not ratified the Covenant on civil and political rights, the enforcement mechanism cannot operate.

But a law is not less a law because it is disobeyed or because breach of it cannot be punished. What is important

\(^7\)\(^8\) International Covenant on Civil and Political Rights 1966, Article 6.
to bear in mind is that those rights to physical integrity outlined above form part of customary international law and apply to everyone. A person may not be summarily executed or tortured simply because he is believed to be a criminal or a subversive. Torture is never permitted under international law; detention must follow correct procedures; executions may only be carried out after conviction and sentence by a court of competent jurisdiction.

The law of war contains protection for persons engaged in armed conflict such as the New People's Army, Bangso Moro Army, etc. The Geneva Conventions of 1949 were drawn up for the protection of the individual in time of war. The four Conventions which form the Geneva Code were ratified by the Philippine government in 1952. Article 3 of the Conventions applies to all armed conflicts of a non-international character and occurring in the territory of one of the powers which is a party to the Conventions. Article 3 states what constitutes a minimum of humane treatment:

a) violence to life and person, in particular, murder, mutilation, cruel treatment and torture; b) taking of hostages; c) outrages upon personal dignity, in particular, humiliating and degrading treatment; and d) the passing of sentences and carrying out of executions without previous judgement pronounced by a regularly constituted court which affords all the judicial
guaranteed as indispensable by civilized people. 78

Any such acts committed by the Armed Forces of the Philippines against surrendered or defenceless NPA or BMA were therefore unlawful. The crimes for which persons can be punished includes war crimes and crimes against peace, and they include the assassination, maltreatment or deportation of the civilian population in occupied territory. The assassination or maltreatment of prisoners of war, the execution of hostages, the pillaging of public or private property, and the destruction of towns or villages without reason, or devastation which is not justifiable on military grounds. In the light of such expression of the law, and in view of the fact that this law can be invoked in the future when victory belongs to the freedom fighters of today, the members of the AFP would do well to avoid committing such crimes.

These criminals could also be reminded that the struggle in the Philippines between AFP-NPA and BMA is a struggle for self-determination, which means, the right is on the side of the guerillas. The right to self-

determination is enshrined in the U.N Charter and has been constantly confirmed by the General Assembly of the United Nations. The Marcos government of the Philippines was not governing by popular will; it imposed a neo-colonial rule with the support of the United States, which denied basic rights to the citizens. In such a situation, people had the right to struggle against that regime, even to the point of taking up arms against it.80

According to the Humanitarian Law concept, an NPA or a BMA member is therefore not a terrorist but, in current international law, he/she is a member of an organization involved in a legitimate struggle for the self-determination of a people. Such a person has more right to carry arms and to use them than the armed forces of a government which has delegitimized itself by governing in opposition to the will of the people and against their fundamental interests.

In the light of these the process of militarization carried out by the Marcos regime to wipe out the rebels was a gross violation of Humanitarian law pertaining to the right of combatants.

80 Humanitarian Law, Author unknown, (Mimeographed).