

PHILIPPINES

@Human Rights Violations and the Labour Movement

1. INTRODUCTION

Amnesty International is concerned about a continuing pattern of serious human rights violations against trade unionists in the Philippines. Victims have predominantly been those accused by the authorities of sympathy with the armed insurgency or members of unions alleged to be "fronts" for the outlawed Communist Party of the Philippines (CPP). The violations have included a disturbing number of extra-judicial executions by members of government and government-backed forces. Trade union members and activists have also been among the victims of arbitrary arrest and "disappearance" and many have suffered torture and ill-treatment while in police or military custody. A number of prominent trade unionists have also been sentenced in trials which may not have been fair and some would be considered prisoners of conscience if detained on the charges they currently face.

1.1. The Legal Status of Organized Labour

In principle, the Philippine Constitution and existing legislation provide substantial guarantees and protection for the rights of organized labour. However, provisions in the amended Labor Code grant state agencies broad discretionary powers in certain labour issues and thereby establish a legal basis for the limitation of those rights. Within the present political climate, these provisions may be easily misused for essentially political ends, and may contribute to serious human rights violations against trade unionists. The same is true of laws pertaining to political acts more generally, among others, those on sedition, illegal assembly, illegal possession of firearms, rebellion and subversion. Such laws can be and are commonly used to detain and imprison people for their lawful activities as trade unionists.

The 1987 Philippine Constitution provides significant guarantees of the rights of workers. Article XIII, Section 3 affirms that the State shall:

"...guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law."

The Bill of Rights, or Article III of the Constitution, guarantees certain basic rights and freedoms such as freedom of speech and association. Section 8 states that:

"The right of the people, including those employed in the public and private sectors, to form unions, associations, or societies for purposes not contrary to law shall not be abridged."

The Labor Code, which was amended in March 1989 by Republic Act 6715, otherwise known as the "Herrera Bill", is the country's central piece of labour legislation. The code provides substantial guarantees of workers' right to organize and engage in peaceful trade union activity. One of its most controversial provisions is Article 263(g), which authorizes the Secretary of Labor or the President to intervene directly in any labour dispute which in their view may cause a strike or a lockout "in an industry indispensable to the national interest" (see Appendix I for full text). This power was further strengthened in Emergency Memorandum Order No 5, promulgated by the President in January 1990. Paragraph 1(d) of this order empowers the Secretary of Labor and the President to intervene and prevent strikes in any business deemed to be "affected with the public interest" (see Appendix I for full text).

Critics have argued that the phrases "indispensable to the national interest" and "affected with the public interest" are ill-defined and leave room for widespread and unwarranted state intervention in labour disputes. They have noted that, in the present political climate, this provision may be misused by the government to restrict the lawful activities of trade unions critical of the government.

The Philippines has ratified 22 of the International Labour Organization's (ILO) conventions on labour standards, including two with particular relevance to Amnesty International's human rights concerns: Convention No. 87 on the Freedom of Association and Protection of the Right to Organize, and Convention No. 98 concerning the Application of the Principles of the Right to Organize and Bargain Collectively. The ILO has received several complaints of non-compliance with these conventions, including instances of alleged extra-judicial execution of trade union leaders. In 1987, for example, the International Union of Food and Allied Workers' Associations (IUF) submitted a complaint alleging military or paramilitary responsibility for the deaths of five NFSW-FGT workers. The ILO's Committee on Freedom of Association considered these allegations for the third time in May and June 1990. The committee requested further information on the progress of investigations into the deaths and recalled that:

"a genuinely free and independent trade union movement can only develop when fundamental human rights are respected and guaranteed".

1.2 The Trade Union Movement

Of approximately 24 million people in the labour force, less than 20 per cent are estimated to be members of a registered union. In order to register with the Department of Labour and Employment (DOLE), a newly formed union must show it has recruited the support of a minimum of 20 per cent of the employees within the bargaining unit where it seeks to operate. This support is recruited through a "certification" election where workers vote in favour or against the union. Frequently, two or more unions compete to win the required percentage of votes for certification. In some cases management-sponsored unions have been encouraged to undermine the unionization process, sometimes with support from members of the security forces. A group of unions may establish a trade union federation if it proves that it has at least ten local chapters (workplace unions) recognized as the bargaining agent in the enterprise in which they operate.

Workplace unions and trade union federations, some of which are very small, may be affiliated to national labour centres or coordinating bodies such as the *Kilusang Mayo Uno* (KMU). Many are, in turn members of the Labor Advisory and Consultative Council (LACC), a tactical alliance of different labour organizations which emerged after the change of government in 1986. The LACC was set up by the then Secretary of Labor, Augusto Sanchez. It was designed to bring together the main existing trade union federations, but political differences among the various federations within the LACC persist.

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Figure 1 A *Labour Day rally, May 1991*

The Trade Union Congress of the Philippines (TUCP), formed in 1975, is the most important union centre to remain outside the structure of the LACC. In 1986 a TUCP pamphlet described itself as a "democratic right-liberal democratic" force, and it is identified with the ruling political group. It is affiliated to the International Confederation of Free Trade Unions (ICFTU) and is also said to have close links with the United States trade union confederation, the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO).

The KMU is probably the most militant of the major labour centres and its members have been the primary targets of trade union repression in the Philippines. Founded in 1980, it now claims a membership of about 750,000 and 11 affiliated union federations. The KMU and its affiliates do not confine their activities to issues of wages, prices and benefits, but participate openly in broader political debates. In these debates, they have emerged as strong critics of the Aquino government. Their militancy and overtly political style of trade unionism have led to allegations by military and government officials that the KMU and its affiliated unions are simply fronts for the CPP/NPA. Human rights violations against KMU members have included extra-judicial executions, arbitrary arrest and detention, torture and "disappearance".

Human rights violations against trade unionists have been particularly serious on the major sugar-producing island of Negros in the central Philippines. Sugar-cane and other agricultural labourers have organized under the National Federation of Sugar Workers-Food and General Trades (NFSW-FGT), which is affiliated to the KMU. Like other KMU affiliates it has been named by the authorities as a front for the CPP/NPA. The NFSW-FGT was formed in 1971 and claims a membership of about 85,000, the core of which is located in Negros. In its campaigns to secure compliance with minimum wage standards, access to land for food-crop production by plantation labourers, and the right to organize, it has frequently run afoul of police, military and paramilitary authorities and plantation officials. According to the NFSW-FGT, between 1986 and the present, hundreds of its members have been unlawfully detained, scores have been killed by government forces or hired "goons" and at least seven have "disappeared".

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Sugar workers in Negros

2. THE LABOUR MOVEMENT AND THE "TOTAL APPROACH" TO COUNTER-INSURGENCY

Human rights violations against trade unionists have occurred within the context of a protracted armed struggle between government forces and the New People's Army (NPA).

During the immediate post-1986 period, the new government expressed its commitment to the protection of human rights and this was borne out by a decrease in human rights violations and the introduction of a number of judicial and other safeguards. Since early 1987, however, when negotiations between the government and the insurgents collapsed, this commitment appears to have been eroded. Unarmed civilians, particularly those involved in trade union, social, community or human rights activities, have suffered serious human rights violations. These have been justified in terms of the government's "total approach" (known popularly as "total war") to counter-insurgency, which has involved efforts to weaken selected civilian organizations as well as the armed elements of the insurgency movement.

While government and military authorities have in part defined the problem of violence within the labour movement as one of "law and order", they have most frequently and most vociferously denounced union involvement in what are described as the "terrorist" activities of the armed insurgency movement. Amnesty International believes that aspects of the government's response to organized labour, and to labour conflicts, have contributed to a pattern of escalating violence and have served to perpetuate, rather than reduce the incidence of human rights violations within the labour movement.

The government's "total approach" to counter-insurgency has resulted in a blurring of the distinction between lawful non-violent opposition and armed opposition to the government. In particular, it has given rise to a tendency to define all those who are critical of the government CPP/NPA supporters involved directly or indirectly in the armed insurgency. This tendency has been marked in relation to the labour movement. Government and military authorities have frequently and publicly accused the KMU and its affiliates of being "fronts" or shields for the outlawed CPP/NPA. The blurring or dissolving of the distinction between the legal opposition and the armed insurgency movement has given credence to government assertions of the need to control or even suppress the labour movement and has acted to legitimate and to encourage acts of repression, including serious human rights abuses.

The "red-labelling" of groups and individuals in the Philippines is an especially dangerous, aspect of this pattern of indiscriminate accusation. Individual members of trade union, church, social and human rights organizations have been accused of membership of the banned CPP/NPA. Once labelled in this way, such individuals are frequently targeted by the security forces. Some, including union leaders, have been placed on an "Order of Battle", a list of persons wanted by the security forces for alleged subversion or membership of the NPA/PPP. Those who have been publicly labelled frequently receive death threats, either from military sources, or from semi-official "vigilante" groups. The evidence strongly suggests that when individuals have been publicly accused of "communist sympathies" or involvement with the underground opposition, the likelihood of their becoming the victim of an extra-judicial execution or "disappearance" is greatly increased. In the majority of cases the

allegations are unproven by the authorities and are denied by the organizations and individuals in question.

The claim that certain unions are fronts for the CPP/NPA has served to divert attention from the content of lawful criticism of government policies and has helped to undermine the credibility and legal status of the unions themselves. The more outspoken unions have called for long-term structural solutions to what they see as fundamental problems of social and political inequalities and their approach has been direct and at times confrontational. Expressions of dissent have, however, been primarily voiced through lawful protest, such as strikes and rallies, and in disputes within specific enterprises over issues such as wages and unfair labour practices. The practice of political labelling has also diverted attention from the serious violations of the human rights of union members. Labelling tends to create the impression that the death or "disappearance" of those dubbed CPP/NPA members is an acceptable feature of the "total approach" strategy.

While it is clear that the more militant elements of the organized labour movement, in particular the KMU and the NFSW-FGT, may support the goals of national democracy or socialism, this political position cannot be equated with advocacy of an armed struggle in order to achieve these aims. Indeed, all the registered labour unions, including the KMU-FGT, have consistently expressed a commitment to the achievement of their goals through lawful means. Likewise, a union's commitment to social and political change does not automatically imply that individual union members themselves also belong to the CPP/NPA. Union membership is made up of individuals with a range of views and sympathies. More importantly, in Amnesty International's view, generalized claims about collective bodies such as labour unions, should never serve as a justification for human rights violations against individual union members.

2.1 Opposition Abuses and Violence in the Labour Movement

Not all of the violence directed at trade unionists can be directly attributed to government security forces or those acting with their support or acquiescence. Some is the work of company security guards or "goons" (hired killers) acting solely on behalf of private enterprise, apparently without military or police cooperation. In other incidents, union activists are themselves believed to have committed violent acts against members of rival unions. Fragmentation and divisions within the labour movement, intense inter-union rivalries, and competition for the support of workers have all contributed to a climate of violence and a pattern of violent confrontations on picket-lines, at union gatherings and during the course of longer disputes. Some summary executions of moderate labour leaders are believed to have been carried out by members of the NPA or by NPA/ CPP assassination squads (known as hit squads or "sparrow units"). The CPP/NPA is also believed to have engaged in harassment of those alleged to have "betrayed" the underground movement.

The most recent evidence of human rights abuses by members of the illegal opposition movement can be drawn from events which occurred in the months preceding and following the *welga ng bayan* (general strikes) of October and December 1990. The first strike called for a rise in minimum wage levels and the second protested an increase in the price of oil. Both were marred by violence committed by alleged NPA members and members of government or government-backed forces.

During the October 1990 strike, government forces were responsible for the violent dispersal of apparently peaceful protests by workers, urban poor, students and church people. The dispersals resulted in a number of injuries. At least 95 arrests were reported, although many were released after a short period. Human rights organizations said that most of the arrests were arbitrary and that those arrested had not acted in violation of the law. Eighteen passenger buses were burned by unidentified men killing at least four people. Government and military sources attributed these actions to the illegal opposition movement.

The KMU and other labour organizations under the LACC deplored the violence which had taken place during the protests of October and December 1990. The CPP/NPA claimed responsibility for setting five buses on fire during the October 1990 strike, but denied setting the others alight. KMU sources suggested that military forces may themselves have promoted violent acts during the strike, in order to undermine the credibility of the union, although these allegations have not been proven.

Between October 1990 and December 1990, at least three trade union leaders and activists were shot dead and the killings were widely believed to have been committed by NPA hit squads. Press and other sources suggested that the killings had been perpetrated by the extreme left because the moderate *Lakas Manggagawa* Labor Center (LMLC) had refused to join the KMU-led general strikes in October and December.

Prior to the 24 to 26 October strike, armed men shot dead **Oscar Lazaro**, president of the moderate *Pasang Masda* drivers' federation. *Pasang Masda* was reported to have declined to take part in the forthcoming general strike. During December 1990, a further two moderate union leaders were killed. They were **Eduardo Federico**, president of the Democratic and Independent Workers' Association (DIWA); and **Ernesto Gonzales**, treasurer of the Commercial and Agro-Industrial Labor Organizations (CAILO). The two were killed at approximately 11.30 on the morning of 10 December 1990. Three unidentified armed men burst into an LMLC conference at the Ateneo de Manila University campus in Quezon City. According to eyewitnesses, one man served as a lookout while two others burst into the conference hall. They were carrying a .45 calibre pistol and an armalite rifle. Another union activist was wounded during the incident. After the killing, the three escaped in a gold-coloured Ford Laser. Eduardo Federico sustained eight gunshot wounds

and died instantly. Ernesto Gonzales was hit three times in the chest and died on arrival at the Philippine Heart Center for Asia. The victims were among 200 participants at the 5th national convention of the LMLC being held at the university.

Amnesty International is aware that human rights abuses have been committed by the armed opposition movement and does not condone acts of violence against unarmed civilians. It recognizes that the existence of an armed opposition may present governments with particular difficulties in the maintenance of order and political stability. Nevertheless, it believes that violent acts by armed opposition groups can never be used to justify human rights violations committed by the security forces or others acting with their support. Governments have a unique responsibility to ensure that the rights and freedoms of citizens are protected. Amnesty International believes that in contexts of armed insurgency, when normal legal procedures and human rights guarantees are at risk of being disregarded by members of the security forces, these rights need to be protected with extra vigilance.

2.2 The Government's Response to Recent Labour Conflicts

When violence has erupted, during strikes or in the course of longer disputes, government and military authorities have tended to focus attention on the violence committed by members of the armed opposition, to the exclusion of the serious violations known to have been perpetrated by government or government-backed forces. Militant unions have been unequivocally condemned by government and military authorities and accused of a deliberate policy of violent action or collaboration with the NPA. These accusations have been accompanied by calls for the "communist" unions to be banned. In some cases those alleged to have killed moderate labour unionists have been brought to justice relatively quickly. The response to alleged opposition abuses is in marked contrast to the government's apparent reluctance to take effective action to control police, military and unofficial armed forces, or to bring those suspected of human rights violations to justice.

The government's response to violence directed at trade unionists was high-lighted by its response to a series of killings which took place between October 1990 and January 1991. As noted above, the killings of moderate labour leaders Oscar Lazaro, Eduardo Federico and Ernesto Gonzales were believed to have been carried out by NPA hit squads. The killings were widely denounced by the government and in the media generally. In May 1991, police charged 17 suspected NPA members, including the son-in-law of KMU Chairman Crispin Beltran (see Section 5.3 below) and the brother of the Chairman of the League of Filipino Students, with the murder of the three union leaders.

Between December 1990 and January 1991, five labour activists, including the leader of a KMU-affiliated union, were killed in apparent extra-judicial executions by "vigilante" groups acting with the support or acquiescence of government forces (see Section 3.11). Yet,

to Amnesty International's knowledge, these killings have not been the subject of thorough investigation and none of the suspected perpetrators been brought to justice. Clearly, the killing of any citizen must be fully and properly investigated and those suspected of murder brought to justice before the courts. However, while suspected NPA killers may be brought to justice relatively quickly, killings apparently carried out by government or government-backed forces rarely lead to prosecution by the courts.

The government's apparently one-sided response to labour-related violence can also be illustrated by other incidents during the October and December 1990 *welga ng bayan*. Government and military authorities responded to incidents of violence with denunciations and threats to ban the KMU. During the October 1990 strike, the armed forces Chief of Staff, then General Renato de Villa, told a news conference that communists wanted to exploit the strike to create an insurrectionary situation and on 24 October 1990, President Aquino's press secretary stated that:

"the aim of these people is to create political instability...that can lead to overthrowing this government. We have to defend ourselves...if force is needed to uphold the constitution then force must be (used)".

Senior military authorities pressed the government to ban the KMU on the grounds that it had taken part in a communist-led plot to "induce" another coup attempt during the general strike. The then Vice Chief of Staff of the armed forces, Major General Rodolfo Biazon, formally asked the Senate Defense Committee for an investigation into the "legal status and the characteristics of [the KMU's] mass actions". He claimed that a coup plot - intended to unfold during the violent strike - was detailed in "subversive" documents seized in several raids. Union officials denied these charges and challenged the military authorities to produce the allegedly subversive documentation.

Events during the last quarter of 1990 and January 1991 have exemplified Amnesty International's concern that despite an expressed commitment to human rights, the government has tended to foster a climate within which human rights abuses against trade unionists are likely to occur. The real difficulties associated with the maintenance of public order during periods of potentially violent labour protest - particularly when these occur within the context of an armed insurgency movement - cannot be underestimated. Nevertheless, aspects of the government's response to labour disputes, whether tacit or openly expressed, suggest that in practice human rights considerations may be subordinated to the curtailment of lawful criticism of government policies.

2.3 Those responsible for human rights violations: Security Forces, CAFGUs, "Vigilantes" and Company Guards

The forces involved in the government's counter-insurgency campaign have included the Philippine Army (PA); the paramilitary Philippine Constabulary (PC)¹; auxiliary paramilitary units known as Citizen Armed Force Geographical Units (CAFGU); Special CAFGU Active Auxiliaries (SCAA); and authorized civilian groups known as Civilian Volunteer Self-Defense Organizations (CVOs). In addition, a range of semi-official armed groups, such as anti-communist "vigilante" groups and company security guards, are known to have the support or acquiescence of government forces. Trade unionists have been victim to human rights violations perpetrated by members of all the forces named above, but have in particular fallen prey to violations by members of the paramilitary and unofficial armed groups.

"Civilian" paramilitary forces have historically played a key role in the suppression of dissent or opposition in the Philippines. The Civilian Home Defence Force (CHDF), notorious for its human rights abuses under President Marcos, was dismantled after the new government came to power in 1986. Both paramilitary forces and private armies were prohibited under Article XVIII of the 1987 Constitution of the Philippines (Transitory Provisions), which states that:

"Private armies and other armed groups not recognized by duly constituted authority shall be dismantled. All paramilitary forces including Civilian Home Defense Forces not consistent with the citizen armed force established in this Constitution, shall be dissolved or, where appropriate, converted into the regular force".

However, Article XVI of the Constitution states that:

"The Armed Forces of the Philippines shall be composed of a citizen armed force which shall undergo military training and serve as may be provided in law. It shall keep a regular force necessary for the security of the State".

Thus, the dissolution of the CHDF was countered by constitutional provisions which laid the basis for the creation of another paramilitary force which in practice replaced it. In July 1987, President Aquino issued Executive Order (EO) No. 264 which stated that the Armed Forces of the Philippines would consist of a regular force and a citizen armed force, the CAFGU. Executive Order 264 justified the creation of a new paramilitary force in terms of the need to quell the armed opposition. It was argued by senior military authorities that

¹ The Philippine Constabulary (PC), previously under direct military control, officially ceased to exist in January 1991. A national police force, the Philippine National Police (PNP), was established and is formally under civilian control.

deployment of a paramilitary force rather than a regular army would be cost-effective under conditions of budgetary constraint. In December 1990, there were estimated to be between 70,000 and 80,000 CAFGUs operating throughout the country.

The guidelines for the recruitment, training and mobilization of the CAFGU were intended to guarantee the formation of a well-disciplined auxiliary force operating under a clear chain of military command. In only a few years, however, the CAFGU have earned a reputation for poor discipline and they are known to have been responsible for widespread human rights violations.

According to official guidelines, potential CAFGU recruits are to be subjected to a rigorous screening process. However, a substantial number of CAFGU members appear to have been recruited from the ranks of the discredited CHDF and a variety of unofficial vigilante groups. There is also evidence of forced recruitment into the CAFGU. Those who hesitate or refuse to join are often accused of sympathizing with the insurgency, and are thereby placed at considerable personal risk. CAFGU members receive basic military training for periods of up to one month, but they appear to receive little if any education in basic principles of human rights.

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CAFGU members in Zamboanga del Norte, 1990

In early 1987 the government authorized the existence of the Civilian Self Defense Organizations (CVOs). The CVOs were ostensibly neighbourhood groups whose function was the defence of their local communities. In October 1987, the government issued guidelines for the operation of the CVOs. These specified, among other things, that the bearing of arms would be restricted to those CVO members permitted by law to do so, for example military and police reservists or private security guards. However these guidelines have often been disregarded in practice and the CVOs have been implicated in numerous reports of human rights violations. Anti-communist "vigilante" groups have in some cases operated under the guise of the CVO structure with the knowledge or acquiescence of military forces.

Despite constitutional safeguards, semi-official armed groups, including company security guards and anti-communist "vigilante" groups, have continued to proliferate alongside official military and paramilitary forces since President Aquino came to power in 1986. In practice, the distinction between the official security forces and the range of unofficial groups is considerably blurred. For example, company security guards, while ostensibly set up to protect company premises, plantations and other privately owned estates and industries, do not function strictly as the private security guards of individual business owners. They are frequently drawn into "counter-insurgency" activities, including armed raids, dispersal of strikes, abduction of civilians and so on. These activities are often carried out with the tacit or explicit cooperation of the official security forces.

The participation of semi-official paramilitary forces, funded by private enterprise but operating with the consent or cooperation of the security forces (which at times involves military training), has been defined by government and military authorities as a necessary component of the fight against the armed opposition movement. In 1989, the deployment of "government" paramilitary forces on the premises of haciendas and other businesses, and in the service of their owners, was officially approved by the military leadership. In a memorandum of April 1989, the Armed Forces Chief of Staff authorized the formation of the SCAAs. The memorandum states that the "mission" of the SCAAs is:

"To assist the Armed Force of the Philippines regular forces and the local government authorities in the protection of life and property within business companies' territorial jurisdiction".

It specifies that maintenance of the SCAAs is the responsibility of the company or business which has requested its formation. By virtue of the fact that their maintenance is paid in part by business, company or estate owners, and that their detachments are located on the property of the company, they share the attributes of a private landlord army; but the SCAAs are officially government-backed security forces and they fall under the formal command of the military forces.

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Paramilitary Group in Negros, 1989

Even when company guards or hired "goons" are directly responsible for the deaths of workers, or for inflicting injuries upon them, government and military authorities may bear a measure of responsibility. In the context of the armed conflict, the labelling of lawful bodies - such as trade unions - has created a climate in which violence against labour activists, or others engaged in lawful political protest, may be ignored, or even condoned on the grounds that it is in accordance with the national interest. In practice, police and military authorities have at times disregarded the unlawful activities of company guards or "goons" acting on behalf of private enterprise.

More seriously, the failure to bring to justice those suspected of committing violent acts, inevitably creates the impression that the government is prepared to permit spurious accusations of CPP or NPA membership as a justification for human rights violations against trade unionists.

Military and government permission for these groups to exist - whether tacit or explicit - is also evident in their being permitted to carry high-powered weapons which by law may

only be carried by government forces or with their specific approval. When "vigilantes", company guards or unauthorized members of CVOs bear these arms in the presence of or with the knowledge of military officers, the failure of the military to disarm or otherwise control them, can only be understood as an act of authorization of their activities.

Evidence of the overlap between "vigilante" group, company security guards and officially recognized SCAAs was clearly demonstrated in the testimonies of union leaders and workers from the Atlas Consolidated Mining Development Corporation (ACMDC) in Cebu province. Workers at the mine alleged that members of their union were victims of a campaign of anti-union violence perpetrated by the "vigilante" group, KADRE, in cooperation with management, the local military command, and local civilian authorities. The workers alleged that from March 1987 to February 1989 alone, nine members of PAMA had been killed, nine had been wounded, five had received death threats and 13 incidents of harassment of union officials and members had been reported.

In July 1989 the Atlas management asked the Armed Forces for permission to form a SCAA in the ACMDC. In spite of a proven record of violence against union members, and evidence that local military forces were involved in this violence, permission was apparently granted and ten members of the KADRE group, all of whom were paid employees of Atlas Mines, completed a twelve-month military training period with pay. The training was carried out by the 347th Company of the Philippine Constabulary.

Amnesty International believes that the continued existence of official paramilitary forces and the proliferation and semi-official armed groups have greatly increased the incidence of human rights violations in the Philippines. The sanctioning of such groups has occurred both officially - through procedures for the formation of CAFGUs, SCAAs and CVOs, through the provision of arms and military training - and unofficially, through tacit military support for the unlawful activities of "vigilantes" and company guards. The government has claimed that a civilian armed force is necessary to combat the armed insurgency. It has, however, persistently failed to ensure that the activities of armed civilian groups are properly controlled, or that the perpetrators of human rights violations are brought to justice.

3. EXTRA-JUDICIAL EXECUTIONS

Extra-judicial executions are among the most serious of the human rights violations against trade unionists in the Philippines and in recent years the incidence of such executions has been disturbingly high. The non-governmental Commission on Trade Union and Human Rights in the Philippines has recorded the killings of 24 workers on picket lines and a further 90 workers who were summarily executed during the course of other activities. Amnesty International has documented more than 300 apparent extra-judicial executions since the

beginning of 1989. It believes that since January 1990, as many as 27 trade union members may have been killed by government or government-backed forces for their lawful activities as trade unionists².

The killings frequently occur during labour protests, in the course of disputes over unfair labour practices, or while workers in a particular company are trying to achieve union recognition. In many cases, the victims have been accused of involvement with the NPA or issued with death threats from military forces or anti-communist "vigilante" groups. Victims may be killed after abduction by members of government or government-backed forces or, as is more frequently the case, during shooting incidents which take place in the street, in restaurants or in the homes of the victims. Those responsible for the killings often attempt to conceal their identities through the use of masks or plain clothes. Witnesses and survivors are nevertheless frequently able to identify the assailants as members of local military units, CAFGUs, company guards, "goons" and "vigilante" groups.

Few of those suspected of having carried out the killings, have been brought to trial, and those who are tried are usually acquitted. For example, a soldier suspected of the murder of KMU chairman **Rolando Olalia** in November 1986 was acquitted in August 1990 when witnesses testified that he was in a different province when the crime was committed. Three soldiers had been charged with the killing but only one was brought to trial; one defendant was granted immunity from prosecution when he turned state's witness and the other was said to be at large. The government's apparent inability to ensure that those suspected of extra-judicial executions are brought to justice, and the courts' tendency to dismiss the cases which are brought before them, appear to have contributed to a situation in which members of both official and semi-official armed forces, may act with impunity. In Amnesty International's view, this has created a situation within which further human rights violations are likely to occur.

Amnesty International believes that the killings of the 23 trade unionists and the attempted killing of the son of a trade unionist, all of whose cases are described below, warrant a thorough and impartial investigation. It urges the government to ensure that such investigations into these and all apparent extra-judicial executions are carried out, that the results are made public and that those suspected of committing human rights violations are brought to justice before a civil court.

² Some Extra-judicial executions of trade unionists were discussed in the Amnesty International documents: *Philippines: Killing of Three Trade Unionists* (AI Index: 35/27/90); *Philippines: Recent Reports of Extra-judicial Execution and Torture of Trade Unionists* (AI Index: ASA 35/03/89). For detailed discussion of extra-judicial executions in the Philippines see the report *Philippines: Unlawful Killings by Military and Paramilitary Forces* (AI Index: ASA 35/02/88).

3.1 Pedro Maguad

Pedro Maguad, a hacienda worker and father of eight, was shot and killed by two masked men in military uniform outside his home in Hacienda Esteban, *barangay* San Miguel, Negros Occidental on 20 February 1989. He had been President of the NFSW-FGT chapter and had been active in the union's activities since it was established at the hacienda in 1984.

According to eyewitnesses, Pedro Maguad was talking with his 14 year old son on the stairs of their house at about 8 pm when two armed men, wearing military uniforms and masks, approached. The men asked whether his name was Pedro Maguad. When he said yes, they shot him four times in the head while his son watched, and then ran away. According to relatives, police and CAFGU members had visited Pedro Maguad several times before. On one occasion, they said, the Chief of Police for the town of Murcia and a CAFGU member had warned him to stop his work with the NFSW-FGT and accusing him of accommodating NPA members at his house.

With the assistance of a local human rights organization, a formal complaint was filed with the regional office of the CHR shortly after the killing. Later in 1989, relatives travelled to Manila to testify before the Senate Committee on Justice and Human Rights. One year later, the case was still "pending investigation" by the CHR. To Amnesty International's knowledge, a thorough investigation has not yet been undertaken and no financial compensation has been provided to the Maguad family.

3.2 Galileo Dinoy, Danilo Acua, Arturo Mirasol, Ildefonso Catan, Gregorio Delumias: Golden Taxi Workers and Employees Union (GTWEU) Members

Six employees of the Golden Taxi Company, Manila, were killed between June and November 1989 during and after a protracted industrial dispute. All were active members of the GTWEU, which is affiliated to the Alliance of National and Genuine Labor Organizations (ANGLO) and the KMU. The unlawful killings were apparently perpetrated by members of the security forces, or by company guards and hired "goons" acting with the support of local military and police authorities.

The killings occurred while Golden Taxi Company employees were in the process of forming a registered labour union and attempting to negotiate a Collective Bargaining Agreement (CBA) with the Golden Taxi management. After two short strikes and a certification election, the union received recognition from the Department of Labor and Employment and the Golden Taxi management, and filed a proposal for a CBA with the Golden Taxi Company. The management refused to negotiate, citing the existence of a rival

union, the Philippine Agricultural Commercial and Industrial Workers' Union (PACIWU), a TUCP affiliate. In response GTWEU announced a strike, claiming that the refusal to negotiate was an unfair labour practice. The strike began on 9 June 1989 and ended on 24 August after an agreement was signed in recognition of the GTWEU as sole bargaining agent of company employees. During the strike, taxis were driven by PACIWU members after an injunction was granted compelling GTWEU to allow non-striking drivers to work.

On 26 June 1989, at approximately 8 pm, **Galileo Dinoy**, chairman of the GTWEU board was killed while walking towards his home. A car stopped and the men inside introduced themselves as policemen before opening fire and shooting him to death. Relatives identified one of the killers as a police officer. The officer was subsequently arrested and is believed to be awaiting trial. On 28 June 1989 **Danilo Acua**, a union member, died at the Philippine General Hospital after being stabbed and shot while in a restaurant near the picket line. Before his death he identified two of his assailants as bodyguards of the proprietor of the Golden Taxi Company and members of PACIWU. Police have reportedly claimed to have been unable to locate the two suspects, although eye witnesses say they have seen them several times since Acua's death.

On 7 September 1989 **Arturo Mirasol**, **Ildefonso Catan** and **Gregorio Delumias**, all taxi drivers and active members of the GTEWU, were killed by armed men in military uniform. The assailants drove past a restaurant where the three were eating, spraying bullets into it as they did so. One of the gunmen was identified as a former bodyguard of the Golden Taxi Company's owner. To Amnesty International's knowledge he has not been charged. **Sammy Estanil**, married with one child, was a driver and member of the GTWEU. He was shot in the head from a passing car on 3 November 1989 and died the following day in hospital. Those in the car were thought to be "goons" hired by the Golden Taxi Company. One of them, believed to have been the killer, was identified as a bodyguard of the owner of Golden Taxi Company. He has not been captured or seen since the shooting.

On 24 December 1989, Golden Taxi's operations manager, **Jaime Javier**, was shot dead by unidentified gunmen at his home in Metro Manila. The timing of the killing gave rise to speculation that the killing was act of reprisal but GTWEU members denied responsibility for the killing.

To Amnesty International's knowledge one police suspect was arrested and is awaiting trial but as of May 1991, no convictions had been handed down by the courts.

3.3 Hernando Pelaro and Pablito Labrador: NFSW-FGT Members

Hernando Pelaro, 16, a farm worker and Pablito Labrador, both members of the NFSW-FGT, were shot and killed by named members of the 331st PC Company and a

CAFGU unit at about 6 am on 26 January 1990. At least three other members of the NFSW-FGT, **Epifanio Lamada**, **Antonio Flores** and **Leonardo Cabansag**, were shot in the same incident but survived. The five victims were among a group of about 15 people who were fired upon by members of a CAFGU unit reportedly based at Hacienda Santa Ana, *barangay* Santa Rosa, Murcia, Negros Occidental and led by a PC corporal. Some of the victims were drinking morning coffee in a small village store in Hacienda Alibasao, *barangay* Amayco, Murcia when the shooting occurred, and others were tending their fields nearby.

* *

Hernando Pelaro, killed in January 1990

Eyewitnesses said that the combined PC/CAFGU unit opened fire without warning with M-14 machine guns on the store from a distance of about ten meters, injuring Leonardo Cabansag who was in the store and Epifanio Lamada who was reportedly in a field nearby. The other occupants of the store were then ordered at gunpoint to line up in the street where they were questioned. The store owner was asked about his relationship to some of the other men, including the two who had been wounded. When he replied that they were relatives and neighbours, he was kicked by one of the soldiers identified as the group leader. The

soldiers asked why he allowed NPAs to gather at his store and accused his wife of being a member of the NPA herself - an allegation she denied. According to eyewitness reports,

when another soldier said "Sir, they are the ones", the leader pointed his gun at Hernando Pelaro and Pablito Labrador who immediately fell to their knees and begged not to be killed. The soldier then fired his gun killing them instantly. A military helicopter arrived a few minutes later to take the wounded civilians to hospital; the two dead men were left behind.

To Amnesty International's knowledge the suspects identified by eyewitnesses as responsible for the killings have not yet been charged or disciplined.

3.4 Gedione Largo

Gedione Largo, a boy of 12, was shot in the head by a CAFGU member near his family's house in Hacienda Roxas, *barangay* Pandano, Negros Occidental on 8 February 1990. He survived but was hospitalized for more than one month and suffered permanent damage to his jaw as a result of the attack. His father, Venancio Largo, a member of the NFSW-FGT, continued to receive threats from CAFGU members after the incident and eventually moved to the town of Bacolod for safety.

According to Venancio Largo, a CAFGU platoon arrived at his small family store at about 8 am on 8 February 1990. They questioned him about the presence of two people who had been in the store drinking coffee shortly before. A group of about eight soldiers then asked for food, beer and cigarettes and these were provided. After eating and drinking, the soldiers ordered the family, including three young children, out of the house. Once they were outside, the soldiers strafed the house and the banana plantation surrounding it; the children ran away in fear.

A few minutes later, Gedione Largo returned home from feeding the carabao (water buffalo). The soldiers questioned him for a few minutes at gun-point. Worried about his other children, Venancio Largo asked the soldiers to allow Gedione to look for them. The soldiers agreed but when Gedione was about three metres away, one of the soldiers shot at him and he fell to the ground. When Venancio Largo ran to his son, the soldiers pointed their weapons at him and threatened that he would also be shot if he moved. Ignoring the threats Venancio Largo picked up his son and took him by public bus to the hospital in Bacolod, where emergency surgery was needed to save his life. Gedione Largo remained in hospital for more than one month. For months after leaving hospital he was unable to speak or to open his mouth; he had lost most of his teeth and his jaw had been fractured.

Venancio Largo was able to identify by name four of the eight CAFGUs involved in the incident and filed a complaint with the regional office of the CHR. To Amnesty International's knowledge, however, no charges have yet been filed against the suspected perpetrators and the family of six has yet to receive any financial compensation. Venancio

Largo moved with his family to the town of Bacolod after receiving repeated threats from CAFGU members in the area.

3.5 Cornelio "Oscar" Tagulao: Workers' Cultural Group Chairman

Cornelio "Oscar" Tagulao, former chairman of the workers' cultural group SIKLAB was shot dead on 7 March 1990 in Mariveles, Bataan province, by at least three unidentified armed men. He was brother of Rufo Tagulao, the president of the KMU affiliated Alliance of Democratic Labor Organizations Central Luzon (ADLO-CL). Oscar Tagulao and other members of the family had previously been threatened with death and harassed by members of the 24th Infantry Battalion of the Philippine Army, apparently in order to pressure Rufo Tagulao to discontinue his activities as a labour leader. Relatives believed that Rufo Tagulao had been the intended victim of the March 1990 attack but that Oscar Tagulao had been mistaken for his brother.

The armed men in civilian clothing approached Oscar Tagulao from behind as he drove a passenger tricycle in front of the public market in *barangay* San Carlos, Mariveles municipality, at about 7:15 pm. According to reports, he was shot in the back and in the left thigh with a .45 calibre pistol. Relatives said that at the time of the attack, Oscar Tagulao was driving a passenger tricycle normally driven by Rufo and was wearing articles of clothing belonging to his brother. As he lay wounded on the ground beside his tricycle, Oscar pleaded with the men not to kill him, saying that they had the wrong person. He was then shot at close range in the left chest and the right shoulder; just before he died, he called out his brother's name. One of the assailants reportedly shouted: "For every NPA killing, 10 people will be killed in retaliation". On 5 March, a CAFGU member had been killed in the area, allegedly by the NPA.

Shortly after Oscar Tagulao's killing, the family arranged to hold a dialogue with local civilian and military authorities. In the course of the dialogue, the local military commander reportedly said that the Tagulao family was on the military's "Order of Battle". He did not confirm or deny that the military was responsible for the killing of Oscar Tagulao but allegedly said he believed it was "a good thing". In a subsequent dialogue, the military commander openly accused the KMU of being a CPP/NPA front and told Rufo Tagulao that as long as he and others remained with the KMU they would continue to have problems from the military.

The killing of Oscar Tagulao occurred in the context of a concerted campaign by the 24th Infantry Battalion to weaken several lawful non-governmental organizations which they accused of being "fronts" for the CPP and NPA; among the organizations named were BAYAN, NAFLU, KADENA, AMBABALA and ADLO-CL-KMU. On 22 February 1990, Orlando Tagulao - the brother of Oscar and Rufo - was detained by members of the

24th IB and taken to their military detachment in *barangay* Ipag, Mariveles. There he was reportedly interrogated at gun-point and told to identify local members of the CPP and NPA.

A complaint was filed with the regional office of the Commission on Human Rights (CHR) but eyewitnesses were reportedly afraid to testify. The outcome of the CHR investigation into the killing of Oscar Tagulao is not known, but to Amnesty International's knowledge the suspected perpetrators have not been brought before the courts.

3.6 Mariano Caspe: United Workers of the Philippines (UWP) Member

Mariano Caspe, a member of the United Workers of the Philippines (UWP), an affiliate of the KMU, was shot by armed men, believed to be members of the 28th Infantry Battalion of the Philippine Army, as he returned home from a UWP rally in Lianga, Surigao del Sur province on 18 March 1990. He died the following day of gunshot wounds. Mariano Caspe was a former *Barangay* Captain and had run unsuccessfully for Mayor in Lianga as a candidate of the *Partido ng Bayan*. He had been an active campaigner for the UWP.

The 18 March rally took place against the background of a contest between the UWP and a rival union over representation of 900 employees of the Lianga Bay Logging Company Inc. (LBLCI). Of the two unions, the UWP had consistently taken a more militant stand against alleged unfair labour practices within the company. UWP officials claimed that local military officials were visibly sympathetic to the logging company. According to reports, members of the 28th Infantry Battalion, a unit conducting tactical counter-insurgency operations in the Lianga area, were deployed at the site of the rally. Some of them reportedly shouted "*UWP-KMU are communists, do not believe them*", and others were seen to be distributing anti-communist leaflets.

The rally proceeded in spite of tension created by the military presence. After it dispersed in the early evening, Mariano Caspe and others left to go home. As they left, there was a "brownout" (a power failure) and the lights went out in the area. Shortly afterwards, unidentified men began to shoot at the group. Mariano Caspe sustained seven gunshot wounds and died on 19 March 1990 before receiving treatment at the Santos Hospital in Butuan City.

In March 1990, the UWP-KMU submitted a complaint to the ILO alleging that Mariano Caspe was shot by members of the 28th Infantry Battalion of the Philippine Army. In a reply to the ILO, submitted in December 1990, the Philippine Government acknowledged that the events described above had taken place but stated that police have been unable to identify suspects because of "an absence" of witnesses.

To Amnesty International's knowledge, despite the government's acknowledgement that the killing took place, those suspected of being responsible for this summary execution, have not been brought to justice.

3.7 David Borja: KMU National Council Member

David Borja, aged 41, was shot by armed men in Iligan City, Lanao del Norte province on 29 April 1990. According to reports, David Borja was flagged down by three armed men as he was driving his motorcycle from the premises of the Iligan Light and Power Company at about 9:30 am. He was then shot several times at close range and died in the street. Police investigators found several empty shells from a .45 calibre automatic weapon near the scene of the shooting. Staff at the funeral home where David Borja was taken said that multiple bullet wounds in his body, and powder burns on his arms, confirmed that he had been shot at close range. After the death, relatives reported that a witness - who requested anonymity for fear of military reprisals - identified the perpetrators as members of the 430th PC Company based in Iligan City.

The victim was a member of the National Council of the KMU; an official in the Southern Philippines Federation of Labor (SPLF), which is affiliated to the KMU, and president of the company union at Iligan Light and Power Company where he worked as a foreman. He had formerly been chairman of the KMU in Iligan City, Lanao del Norte.

* *

David Borja's Funeral, May 1990

David Borja was said by colleagues to have campaigned actively against military and paramilitary harassment of members of the labour movement. Probably as a result of these activities, in July 1989 the Borja's family home was reportedly raided and searched by members of the 430th PC in Iligan. During the search, pictures of KMU gatherings and KMU pamphlets were confiscated by military officials. Relatives have said that after the raid David Borja became increasingly apprehensive and feared for his own safety.

Recent information received by Amnesty International indicates that the killers of David Borja are still at large.

3.6 Cleofe Maloloy-on: NSFW-FGT Organizer

Cleofe Maloloy-on, an organizer of the National Federation of Sugar Workers - Food and General Trades (NFSW-FGT) since 1987, and chairman of her village youth organization, was stabbed to death by three unidentified men at about 11 pm on 3 May 1990 in *sitio* Santa Cruz, Batria, Daan Bantayan, Cebu province. Her assailants were believed to be members of a local company's security force but Cleofe Maloloy-on had been under suspicion by military authorities for some time for her political and trade union activities. She had been arrested in March 1988 by members of the 342nd PC Company but released after one day. In

September 1988 she and another NFSW-FGT organizer, Leticia Navaja, had been detained for several days at the stockade of the same PC company and reportedly threatened with death for their active role in organizing sugar workers in the area. Shortly before Cleofe Maloloy-on's death, various NFSW-FGT organizers in the village had reportedly been followed by unidentified men.

* *

Cleofe Maloloy-on after her death, May 1990

The stabbing occurred during a village fiesta in Santa Cruz. Cleofe Maloloy-on had just left the stage where she had presided over the coronation of the "prince" and "princess" of the village. As she made her way through the crowd, she was approached by three men. One of them held her while another stabbed her in the arm, the neck and the abdomen with a long double-bladed knife; the third served as a look-out. The assailants fled on a motorcycle. Cleofe Maloloy-on died before she reached the Verallo Memorial Hospital in Bogo town.

To Amnesty International's knowledge the suspected killers of

Cleofe Maloloy-on have not been brought to justice.

3.9 Oriel de la Torre, Nestor Apolonio and Ernesto "Jun" Gripal: Members of the Goldilocks Bakery Union

Oriel de la Torre, a 42-year-old baker; Nestor Apolonio aged 32, a driver; and Ernesto "Jun" Gripal, a 26-year-old worker, were shot dead during a strike at the Goldilocks Bakery in Mandayulong, Metro Manila in September 1990.

The three workers, all members of the Goldilocks Employees and Labour Association (GELA), an affiliate of the TUCP, joined a strike in September 1990 over alleged unfair labour practices. Eyewitnesses reported that on 28 September 1990 some 100

company security guards and hired "goons", armed with pistols, revolvers and shotguns, arrived at the picket line at approximately 10.30 am. They ordered the workers to disperse peacefully and when this resulted in a commotion, fired "warning" shots which resulted in the deaths of the three and the wounding of at least two dozen others. A grenade was also fired at the picket line but failed to explode.

The armed men were reportedly acting upon orders from the company's owners. Workers said that the head of the Goldilocks security force had said "*whether you like it or not this will be the saddest day in your lives*" before the shooting took place. At the time of the incident a representative from the Department of Labour and Employment was reportedly serving an injunction ordering the strikers back to work, giving rise to speculation that the government was aware of, or complicit with the company's plans to use force to end the strike.

In a September 1990 submission to the ILO's Freedom of Association Committee, the KMU cited this case, and called for an investigation into "the connivance of Department of Labour and Employment officials" during the incident. The Government responded in December 1990, and stated that investigations had led to the filing before the Mandaluyong Regional Trial Court of criminal charges against one of the security guards and three other people involved in the violence on 28 September 1990.

In September 1990, press reports indicated that police had detained 90 security guards believed to have been involved in the violent dispersal and shooting of Goldilocks bakery workers in September 1990. They said that some of the guards were likely to be charged with murder. However, to Amnesty International's knowledge none of the four had been brought before the courts by May 1991.

3.10 Ferdinand Pelaro, Reynaldo de la Fuente and Aguinaldo Marfil: Members of an NFSW-FGT Cultural Group

Ferdinand Pelaro and Reynaldo de la Fuente, both aged 18, and Aguinaldo Marfil, aged 19, were shot and killed in Negros Occidental province on 22 November 1990. All three were members of the NFSW-FGT, and *Teatro Obrero*, a cultural organization within the NFSW-FGT. At the time of the incident they were organizing an event in celebration of Human Rights Day on 10 December for the membership of the NFSW-FGT.

According to an eyewitness, who was with them at the time of the incident, the three were on their way to the Hacienda Azcuna, *barangay* Minnoyan, Murcia in Negros Occidental, when they were approached by three armed CAFGU members. While the witness was stopped and questioned by two CAFGU members, Ferdinand Pelaro, Reynaldo de la Fuente and Aguinaldo Marfil went ahead. A third CAFGU member followed them and

the witness said that soon afterwards a sudden burst of gunfire was heard. After a few minutes, the CAFGU member returned and is said to have told the other CAFGU members that he had killed the three "organizers" because they had tried to escape. The witness said she was then taken to the site of the killing and shown the bodies of the three trade unionists.

Relatives subsequently recovered the bodies which bore multiple gunshot and knife wounds. Witnesses said that the military brought the bodies to the Murcia Municipal Hall and left them in the garage there, claiming the victims were members of the NPA killed during a military skirmish.

To Amnesty International's knowledge, none of the military or CAFGU officers suspected to have carried out the killings of Ferdinand Pelaro, Reynaldo de la Fuente and Aguinaldo Marfil have been brought before the courts.

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Sugar worker in Negros

3.11 Perito "Boy" Lisondra, Luisito Tesoro, Apolonio Alecanio, Ike Hernandez, Lino Arog: KMU leaders and activists in Davao City.

Between December 1990 and January 1991, five trade unionists were killed on the island of Mindanao in the southern Philippines. All five were apparently victims of extra-judicial executions carried out by members of "vigilante groups" acting with the support of the local military command. At least two had received death threats from "vigilante" groups known to have the support of military forces, prior to the killings. Human rights organizations and union members have protested the killings which, they believe, were part of the government's response to a series of strikes which took place in the region during the latter months of 1990.

Perlito "Boy" Lisondra, aged 36, died on 18 December 1990, two hours after being shot by armed men in the commercial district of Davao City. His assailants were believed to be members of the anti-communist vigilante group *Alsa Masa* supported by military authorities in the area. Prior to his death Perlito Lisondra had been an organizer for Transport Mindanao for Solidarity, Independence and Nationalism (TRANSMISSION), an alliance of transport workers affiliated to the KMU. TRANSMISSION was one of the main sponsoring organizations of a strike in Mindanao in December 1990. The strike was one of a series during the last quarter of 1990, in which unions had protested oil price increases. During the December strike, an *Alsa Masa* member was said to have pointed a gun at Perlito Lisondra's head and threatened to kill him on the spot for "communist activities".

Luisito Tesoro, aged 43, a meter reader for the Davao Light and Power Company and an active union member, was killed on 8 January 1991 in the aftermath of negotiations for a new Collective Bargaining Agreement. Police stated that his body had been found several kilometres away from the town centre. He is believed to have been killed while on his way home from attending a "protest caravan" (a gathering or vigil), staged by fellow employees. The killing of Luisito Tesoro had been preceded by publication of a press release in several of the local daily papers, which warned that radical labour leaders and activists would be targeted by them. The press release was issued in the name of a group called "Vigilantes".

Two more trade unionists were killed in apparent extra-judicial executions on 8 December 1990. Apolonio Alecanio, a worker at a rubber plantations was killed on his way to work in Toril near Davao City. An hour later the mutilated body of Ike Hernandez was found, also in Toril. His legs had been chopped off and his stomach sliced open. Two other union leaders were reported to have been seriously wounded during the attack. On 24 December 1990 Lino Arog, union president at STANPHILCO, was shot dead by armed men on the premises of a plantation in General Santos, Cotabato City, Mindanao.

During the period in which these killings took place, local government officials were reportedly worried at the level of "violent language" being used by military authorities and anti-communist groups in the area. Concern was also expressed at military moves to use unofficial armed groups for "security" purposes during strikes. In one briefing, the Commander of the Davao City Metropolitan District Command reportedly described

participants in the December strike as the "enemy". He was said to have announced that he was fielding 300 *Alsa Masa* members plus an undisclosed number of "undercover agents" to maintain security. He summarized the strike issues as a "question of communism and the survival of democracy". During a general strike in December, signs appeared all over the city condemning the strike and naming participating groups as "communists" and "demonia".

As far as Amnesty International is aware, none of those suspected of having carried out these unlawful killings has been brought before the courts.

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Members of Alsa Masa in Davao, 1989

The number of trade union leaders and members killed for their lawful activities within the labour movement has reached alarming proportions in the Philippines. The rhetoric of the counter-insurgency campaign, which defines all social protest as tantamount to participation in the armed insurgency, has had particularly dangerous consequences for trade unionists engaged in political debates and labour disputes. Their public profile and criticism of government policy make them easy targets for those involved in the "total approach" counter-insurgency campaign. The government has - whether tacitly or explicitly - sanctioned the so-called counter-insurgency activities of "vigilante" and other unofficial armed groups, and these latter have been responsible for a significant number of arbitrary killings of labour

activists. The government's failure to prosecute those suspected of carrying out the killings has also helped to create a climate within which summary and arbitrary executions by government and government-backed forces have become a normal feature of labour relations in the Philippines.

4. "DISAPPEARANCES"

Amnesty International received information regarding more than 50 "disappearances" during 1990 and about 40 in the previous year³. Eight individuals were reported to have "disappeared" during the first five months of 1991. Several of the "disappeared" have been found dead, apparently killed while in the custody of government or government-backed forces. Others have been located after being held incommunicado and without charge for long periods in police or military custody. Still others remain missing several months or even years after their abduction and are feared dead. Most of the victims of "disappearance" have been leaders or members of lawful non-governmental organizations, including trade unions, which the authorities have alleged to be fronts for the CPP/NPA.

The counter-insurgency campaign appears to have created the conditions under which "disappearances" are likely to occur. Members of the security forces have been granted a considerable degree of autonomy in fighting the NPA and powers of arrest and detention have been widened. Legal procedures for citizens' protection against arbitrary arrest and detention appear to have been widely disregarded by members of the security forces; and legal and institutional mechanisms for the location of those who have "disappeared" have proved ineffective. The government has failed to bring the alleged perpetrators of "disappearances" to justice.

Trade unionists have not escaped abduction and "disappearance" by military or police authorities. Two of the victims whose cases are described below are feared dead. The fate and whereabouts of two others, missing since May 1989, have not been clarified in spite of persistent attempts by relatives and lawyers to find them. In another instance of "disappearance", the victim managed to escape after being held for three days by armed men allegedly linked to the paramilitary Philippine Constabulary. However, trade unionists make up a relatively small proportion of the total numbers reported to have "disappeared" in recent years. This lower number is, however, disturbingly matched by a high incidence of extra-judicial execution of union members⁴. Human rights workers in the Philippines have

³ See the Amnesty International report *"Disappearances in the Context of Counter-insurgency"* (AI Index: ASA 35/05/91).

⁴ Amnesty International has documented reports of the "disappearance" of at least ten individuals since January 1990 as compared to at least 27 reports of extra-judicial execution during the same period.

observed that the incidence of "disappearance" and extra-judicial killing appears at times to be linked and that when "disappearances" appear to have abated, the number of extra-judicial executions is likely to increase. Where summary execution functions as the mechanism for the violent suppression of those whose views are unacceptable to the government or private enterprise - as appears to be the case with labour activists - then the "need" for "disappearance" may diminish.

Amnesty International believes that "disappearance" into police or military custody is a very serious human rights violation. It is known to have resulted in the death of some victims and others have been held secretly, unprotected, in locations unknown to their relatives for long periods of time. The location of all those reported to have "disappeared" should be treated as a matter of urgency. The fact that fewer trade unionists have "disappeared" than have been extra-judicially executed in no way diminishes the seriousness of each individual report of a "disappearance" and Amnesty International urges the government to ensure that renewed efforts are made to clarify the fate and whereabouts of all the trade unionists whose cases are described below. The organization also urges the government to investigate the cases of all other reported cases of "disappearance" in the Philippines.

4.1 Simplicio Anino and Raul Quiros

Simplicio Anino is a member of the Alliance of Nationalist Genuine Labour Organizations (ANGLO-KMU). Raul Quiros is General Secretary of the *Buklurang Manggagawa ng Pampanga* (Union of Workers in Pampanga) and provincial coordinator of the Association of Democratic Labor Organizations (ADLO). They "disappeared" after being abducted on 26 August 1988 while on their way to meet striking workers from two restaurants in Angeles City, Pampanga. Amnesty International fears that the two may have been killed in custody.

The two men were travelling in a passenger jeep at about 4 pm when six men, armed with guns and rifles, stopped and searched their vehicle on Henson Street, Angeles City, and took them away in two cars. Later that afternoon, Raul Quiros was reportedly seen blindfolded, gagged and tied up, being taken from a car into a house on San Vicente Street, Dolores, Angeles City. Residents said that this house was regularly used by armed men, believed to be members of armed anti-communist "vigilante" groups operating in the city.

* *

Simplicio Anino "disappeared" in August 1988

Human rights groups publicized their abduction at a picket outside the city hall in Angeles City on 29 August. Later, human rights groups visited the 174th PC Company/Metropolitan District Command headquarters in Angeles City and the 172nd PC Company headquarters in San Fernando, but officials there denied any knowledge of the two men. In November 1988, the Mayor of Angeles City wrote to Amnesty International members in reply to appeals he had received. He expressed concern for the two missing unionists and stated that he had personally undertaken to visit local security forces headquarters

to search for the two and to press the authorities to investigate the case. He was unsuccessful in these endeavours and in his letter stated:

"It is speculation among knowledgeable quarters in the city that prospect for recovery of the persons/bodies of missing persons cited are dim at this time."

There were several reports of killings attributed to armed anti-communist "vigilante" groups in Angeles City during 1988, including the murders of human rights lawyer Ramos Cura on 18 June and a doctor, Patricio Santiago, on 30 June. Military authorities in the area denied any links with the armed civilian groups, but local residents believed that the "vigilantes", who appeared to be heavily armed and well-funded, cooperated closely with the military in their counter-insurgency activities. In May 1988, the "vigilantes" issued a press statement calling on left-wing activists to cease their work. In August, after several suspected communist rebels had had cases dismissed in court for lack of evidence, judges and *fiscals* (public prosecutors) received threatening letters from a group calling themselves the Movement of Anti-Communists in Pampanga.

The Commission on Human Rights conducted an investigation of the "disappearance" of Simplicio Anino and Raul Quiros and reported that the witness who had seen Raul Quiros being taken away by armed men was too frightened to testify, and that inquiries at the military detachments had yielded negative results. To Amnesty International's knowledge no further action has been taken by the authorities and the fate and whereabouts of the two trade unionists remain unknown.

4.2 Felix Cardano and Rodolfo Ubusan

Felix Cardano and Rodolfo Ubusan have not been seen since 1 May 1989 when police and soldiers forcibly dispersed a Labour Day rally in Manila in which the two were participating. Felix Cardano was Secretary General and Rodolfo Ubusan a member of the Malabon Labour Alliance-KMU. It is believed they were taken into custody by members of the security forces.

* *

Felix Cardano, "disappeared" in May 1989

Some 200,000 people joined the Labour Day march. It was reportedly dispersed with tear gas by members of the Western Police District (WPD) and soldiers from the Capital Regional Command (CAPCOM) shortly after members of the KMU and other labour organizations began to approach the United States Embassy. According to reports, tear gas canisters were thrown from the police lines and marchers started to withdraw in an

orderly fashion. However, as more tear gas was thrown towards the marchers and shots were fired into the air, the demonstrators started to run for safety as they were chased by police wielding truncheons.

Representatives of Philippine human rights organizations attempted to find Felix Cardano and Rodolfo Ubusan at the WPD Headquarters and other possible detention centres in the area. The authorities denied having the two men in custody. Lawyers acting for the two unionists filed a petition for *habeas corpus* naming the Police Superintendent of the Western Police District, Manila, as the respondent. However, two hearings scheduled for June 1989 were postponed because the witness failed to appear, reportedly for fear of reprisals. On 27 June 1989, the Supreme Court dismissed the petition "for lack of evidence to substantiate the same". In the same resolution the court directed the case to be referred to the Commission on Human Rights (CHR).

In May 1990, the CHR reported that it was continuing to investigate this case. However, to Amnesty International's knowledge the fate and whereabouts of Felix Cardano and Rodolfo Ubusan remain unknown.

4.3 Lidia Sicat

Lidia Sicat, a trade union organizer and staff member of the Workers' Alliance of Region III (War III-KMU), was abducted on 26 August 1990 by armed men thought to be linked to the Philippine Constabulary, in *barrio* Dolores, San Fernando, Pampanga province. After three days of being detained in a "safehouse" (an unofficial detention centre), she managed to escape. Lidia Sicat said that during the three-day period she was questioned by several officers, who asked for the names of colleagues, and about the organizations with which she was involved.

At about 6.30 pm on 26 August, five armed men believed to be soldiers barged into Lidia Sicat's house and dragged her out at gunpoint. Relatives tried to accompany her, but the abductors prevented them from doing so, saying she had to be taken to the Narcotics Command headquarters in Camp Olivas, Pampanga. Relatives went immediately to the headquarters but military officials there denied knowledge of the arrest. Prior to her abduction Lidia Sicat had been placed under close surveillance by members of the Philippine Constabulary in San Fernando, Pampanga. A few weeks before the abduction, a PC officer reportedly went to Lidia Sicat's home and warned her to stop her involvement with War III.

Lidia Sicat was one of 18 people arrested in March 1989 at the AMGL offices in San Fernando, Pampanga province, and adopted by Amnesty International as prisoners of conscience.⁵ They were charged with subversion and the illegal possession of firearms and held in custody until September 1989 when the court ruled that there was insufficient evidence against them. Two of the 18, Maximiano "Jun" Mesina and Felix Dimitui, subsequently "disappeared" after abduction by armed men believed to be members of the Philippine Constabulary on 2 January 1990. As of May 1991 the two were still missing.⁶

5. ARREST AND IMPRISONMENT

⁵ For further details see *Philippines: The Arrest and Imprisonment of 18 Activists in Pampanga Province* (AI Index: ASA 35/25/89)

⁶ See *Philippines: "Disappearances" in the Context of Counter-insurgency* (AI Index: ASA 35/05/91).

Hundreds of trade unionists have been detained over the past five years in the Philippines. Dozens have been charged with crimes such as inciting to sedition, illegal association, illegal possession of firearms and illegal assembly. Amnesty International believes that some of those charged might be prisoners of conscience if they were imprisoned. The majority of trade unionists detained under the current government have not been convicted and sentenced. They have, instead, been subjected to a pattern of arbitrary short-term detention - sometimes repeated detention - on charges which often appear to be without foundation and which are frequently dismissed for lack of evidence. Others have been subjected to ill-treatment or torture following arrest, or while participating in strikes or other lawful demonstrations.

In many cases arrest and imprisonment appear to be intended to silence particularly important or outspoken national trade union leaders. The general pattern of harassment also serves to obstruct the course of trade union activity and to undermine both the credibility and legal status of the unions they lead. Arrests frequently occur at critical moments during industrial disputes; for example, just before or during certification elections or in the course of successful strike action. Legal procedures which follow the arrest of union activists - apart from their ostensible objective of establishing the guilt or innocence of the accused - provide a forum for the authorities to make public accusations about the political affiliation and subversive motives of the leader, his or her union and all of its affiliates.

The government's "total approach" to counter-insurgency, has increasingly served as a justification or an impetus for the suspension or reinterpretation of existing legal procedures and safeguards in dealing with political cases. Thus despite the existence of constitutional guarantees of civil and political rights in the Philippines - including those pertaining to due process and fair trial - there are serious doubts about the lawfulness or constitutionality of certain procedures currently used to arrest and detain political suspects, including trade unionists, and about the fairness of their trials.

5.1 Medardo Roda: Possible Prisoner of Conscience

Medardo Roda, 55, President of *Pinag Kaisahang Samahan ng Tsuper at Operators Nationwide* (PISTON) and a member of the KMU national council, was arrested on 21 November 1988 after speaking at a press conference during which he urged members of PISTON to join a week-long nationwide transport strike. He was charged with inciting to sedition and in April 1990 he was sentenced to between 4 years two months and six years one month in prison. He was released on bail pending appeal but as of March 1991, a decision on the appeal had not yet been reached.

Amnesty International believes that Medardo Roda was charged and sentenced for the non-violent expression of his political beliefs and that if he were ultimately imprisoned on the

charges filed he would be a prisoner of conscience. It is also concerned that he was convicted solely on the basis of the uncorroborated testimony of four police officers. In view of allegations by human rights lawyers that professional witnesses have been used to testify for the prosecution in political cases, Amnesty International believes that Medardo Roda's trial may not have met internationally-recognized standards of fairness.

* *

Medardo Roda, PISTON Chairman

The November 1988 strike call followed a government announcement reducing fare rates. Jeepney drivers threatened to strike if the government did not reduce the cost of basic commodities and spare parts to compensate them for the loss of income resulting from the fare reduction. The Superintendent of the Western Police District (WPD), describing Roda as a "professional agitator", justified the arrest as a preventive measure to protect the public and prevent anarchy in the streets:

"The failure of the riding public to go home after work to savour their earnings of the day...as well as the tranquility of the community have been hampered by these strikers...These constitute enough basis for the [Roda] arrest".

Police authorities, who filed the complaint against Roda, claimed that he had delivered a "seditious speech" in which he called for the overthrow of the Aquino government. During his trial Medardo Roda denied the statements attributed to him by four police officers who were said to be present at the press conference. Nevertheless, the court sustained their testimonies and found him guilty under Article 142 of the Revised Penal Code (see Appendix I for full text).

According to the testimony of the police witnesses Roda had said that: there were people who may be either members of the military or the police waiting for him outside; that the current situation with respect to free speech was worse than under the Marcos government; and that the government of Cory Aquino was "rotten" and should be toppled down. In his decision the presiding judge of the Manila Regional Trial Court ruled that:

When one says in no uncertain terms the government of Cory Aquino is rotten and should be toppled down, [it] cannot be interpreted in any other way than a call for people to topple the government. [It] is inciting to sedition as defined by the Revised Penal Code. The action and statement of the accused immediately before, during and after the press conference all lead to the direction of inciting people to sedition, that is to topple down our duly constituted government.

A former "jeepney" driver and a political detainee under the Marcos regime, Roda has been arrested repeatedly in connection with his trade union activities. He was arrested in August 1987 and charged with sedition for his role in leading a transport strike. In June 1990, shortly after appealing his April 1990 conviction on the charge of inciting to sedition, he was reportedly arrested again for leading a one-day work stoppage by PISTON. He was arrested yet again, without a warrant, while addressing demonstrators during the general strike on 24 October 1990. He held for one day at the WPD, then transferred to Manila City Jail; he was released on bail on 29 October 1990 after the strike was over. Amnesty International is concerned that Medardo Roda's repeated arrest has been intended to disrupt his lawful activities as a trade union leader.

5.2 Elizalde Malaloan and Marlon Luarez: Possible Prisoners of Conscience

On 25 March 1990, 62 people - including two trade union instructors, 58 workers from different trade unions, a caretaker and her one-month old baby - were arrested during a raid by members of the Philippines Constabulary's Capital Regional Command (CAPCOM) during a trade union seminar at the Ecumenical Institute for Labour Education (EILER) Seminar House in Quezon City. The two trade union instructors, Elizalde Malaloan and Marlon Luarez, were later charged with illegal possession of firearms in furtherance of rebellion under Presidential Decree 1866; they were held for a few weeks before being released on bail. They are currently on trial at the Regional Trial Court in Quezon City. The other trade unionists were released without charge following interrogation at Camp Karingal in Quezon City, the headquarters of the Northern Police District.

Amnesty International believes that, if they were imprisoned on the charges filed, Elizalde Malaloan and Marlon Luarez might be prisoners of conscience. It is investigating the background to the arrest to determine whether there is any basis to the charges. It is

concerned that the evidence used to implicate them may have been planted by the arresting officers and by reports that, in the course of the trial, EILER staff members have received threatening telephone calls believed to be from members of the police or the military. Amnesty International believes that, under the circumstances, their trials may not meet internationally-recognized standards of fairness.

Military authorities claimed that they had found ammunition, firearms and "subversive documents" during the raid on the EILER seminar house. The accused and witnesses claimed that the arms and ammunition in question had been planted by the authorities, and denied that the written materials seized were subversive in content. The allegation of falsification of evidence was supported by the caretaker at EILER, Sol Trinidad, who stated that some of the arresting officers had carried a plastic bag into the house and had placed it on the shelf where they later claimed to have discovered arms and ammunition. The caretaker was made to sign an inventory of the items allegedly found on the premises although she had not been able to accompany the soldiers as they conducted their search.

Human rights lawyers allege that military and police authorities have frequently planted firearms or ammunition during or even after the arrest of political suspects in order to obtain evidence to sustain the charge of illegal possession of firearms. In one case documented by Amnesty International, several members of the AMGL, a lawful peasant organization in Central Luzon, were arrested and charged with illegal possession of firearms in circumstances very similar to those described above.⁷ Security forces conducted a raid during an AMGL seminar in Baguio City in 1988. The caretaker of the building was forced to sign an inventory of the items allegedly found in the building although she had not been permitted to observe the authorities conduct their search. The detainees denied the allegations of possession of firearms and claimed that the weapons in question had been planted by the arresting authorities, but they remained in prison pending trial. In what was regarded as a courageous decision, the Regional Trial Court Judge dismissed the charges on the grounds that there was no evidence that the weapons "found" on the premises actually belonged to the accused. Although this was an example of the way in which the judiciary might ideally exert its authority, it confirmed the suspicion that arresting authorities might in fact plant evidence of this kind.

Amnesty International's investigations have revealed disturbing evidence of the intimidation of EILER members which may be intended to influence the course of the trial. Staff members at the EILER office have reported receiving threatening phone calls from one or more people who they believe to be military or police officials. The callers have reportedly said: "What are you doing there? Be careful. We are going to raid you." Such calls have come just before each scheduled trial hearing at the Regional Trial Court in Quezon

⁷ see *Philippines: The Imprisonment of Activist Farmers in Baguio City* (AI Index: ASA 35/35/88)

City. The calls have continued intermittently since late 1990 when defence lawyers filed a motion before the Court of Appeal to dismiss the case.

The KMU submitted the case of the EILER arrests to the International Labour Organization (ILO) in September 1990 as part of a complaint against the Government of the Philippines. In a reply to the ILO dated 18 December 1990, the government acknowledged that the raid had taken place, but stated that it had yielded much "subversive and seditious material". It apparently did not comment on the charges against the two trade union instructors or on the status of the legal proceedings against them. In its 227th Report, the ILO's Committee on Freedom of Association asked the government to provide examples of the seditious materials which it claimed to have found in the seminar house and to supply details of the trials against the two trade union instructors.

5.3 Repeated Arbitrary Arrest and Short-term Detention: The Case of Crispin Beltran

Crispin Beltran, the chairman of the KMU, has been arrested repeatedly over the past two years and charged with a broad range of crimes, many of them political in nature, including: illegal association (Article 147), inciting to sedition (Article 142), illegal assembly (Article 146), slander, arson and *estafa* (fraud). According to human rights lawyers, a total of 18 charges have been filed against him. Government and military authorities deny that these charges have been intended to hinder or inhibit Beltran's activities as a trade union leader or political activist. However, Amnesty International believes that they may be unfounded, and intended primarily to silence or intimidate Crispin Beltran and to weaken the KMU by alleging that it is a "front" for the CPP/NPA.

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Crispin Beltran, KMU Chairman, talking to police officers at a Manila Rally

Several of the charges against Crispin Beltran have been dismissed outright by the courts, or withdrawn voluntarily after a period of time by the military, because of a lack of substantial evidence. Some of the charges recently brought were originally filed between twenty and thirty years ago, and, according to some human rights lawyers, were only revived by police in November 1990 as a pretext for disrupting Beltran's trade union activities on any pretext. The repeated arrests coincided with public denunciations of the KMU by government and military authorities. Moreover, in virtually every case they occurred at critical moments in important industrial or legal disputes.

In February 1989 Crispin Beltran and nine officials of the KMU-affiliated *Panaghiusa sa mga Mamumuo sa Atlas*-Southern Philippines Federation of Labor (PAMA-SPFL) were charged with illegal association under Article 147 of the Revised Penal Code.⁸ The charges appeared to be an attempt to preempt legal complaints which the union had filed against the local commander of the 347th company of the PC, and the armed vigilante group, KADRE (Movement for Democratic Reform), for alleged human rights violations against union

⁸ The others charged were: Attorney Wenifredo Orcullo, Antonio Cuizon, Elpidio Caterbas, Nicanor Ditchos, Mariano Oliver Guadez, Pascual Dano, Roger Cubar, Joebirth Baritua, Rotillo Erojo

members (see section 2.3). Among those arrested was the SPFL vice-president and legal counsel, Attorney Wenifredo Orcullo. The arrests also served to disrupt the union's mobilizing activities at an important juncture. They occurred shortly before a certification election at Atlas Consolidated Mining Development Corporation (ACMDC), in Toledo, Cebu, which was being contested by PAMA-SPFL and other unions.

According to trial documents the original complaint filed by police authorities alleged that the KMU and PAMA-SPFL were front organizations for the CPP/NPA:

It is alleged that the KMU, headed by Crispin Beltran...is the front for the CPP/NPA under the umbrella of the National Trade Union Bureau. The SPLF with its local chapter, the PAMA, is an affiliate of the KMU. All these organizations have as their aims, purposes and activities to overthrow the existing government...

However, the prosecution provided very little in the way of evidence to substantiate the allegation that the KMU was a "front" organization and none whatsoever to substantiate the allegation against PAMA-SPFL. The resolution of the State Prosecutor stated simply that:

... the CPP and the NPA are already declared illegal associations under PD 885 while the KMU is also engaged in immoral activities as published in the national and local press.

The allegations of association with the CPP and NPA appeared to be intended primarily to intimidate and discredit the KMU and its affiliates and perhaps ultimately to justify their decertification.

Crispin Beltran and the others were released on bail but as of May 1991 their trial was continuing. On 30 October 1990, following the general strike, Beltran was arrested again by police. He was charged with inciting to sedition and the less serious illegal assembly and then released on bail. The state-run *Philippine News Agency* said that he had been accused by police of calling for the overthrow of President Aquino's government at a public rally at the height of the strike. He was arrested immediately after appearing in a television talk show during which he had outlined the KMU position regarding the general strike.

Beltran posted bail for his provisional release after the 30 October arrest, but was held again temporarily at the Western Police District when police revived charges of *estafa* (fraud) and slander originally filed in 1962 and 1971 respectively. He again posted bail on 2 November and was released; hearings on these two cases are continuing.

The following day, 3 November 1990, police authorities filed arson charges against Crispin Beltran and more than 20 other union officials, in connection with the burning of two buses in Bataan province during the general strike.⁹ A police officer said that Crispin Beltran was among the accused because he was national chairman of the KMU, which was responsible for the strike. In November 1990 a judge at the Municipal Circuit Trial Court of Orani-Samal, where the charges were filed, refused to issue a warrant of arrest against the accused and instead scheduled the case for preliminary examination on 14 and 28 November 1990. When the preliminary examination was about to be completed, the military authorities reportedly withdrew the arson charges. Human rights lawyer, Attorney Dante Ilaya, who was among the accused, said that the charges had been "pure fabrication, malicious and unfounded." The Bataan branch of the Integrated Bar of the Philippines (IBP) stated that the filing of arson charges against Attorney Ilaya and others was an act of harassment designed to silence human rights advocacy and political dissent.

In March 1991, the charges of illegal assembly, originally brought against Crispin Beltran in October 1990, were also dismissed by the court after police failed to substantiate the complaint. Crispin Beltran is not now in detention but continues to face charges of illegal association, inciting to sedition, slander and *estafa*. Amnesty International believes that these charges may be without substance, that they may be intended to disrupt Crispin Beltran's activities as a trade union leader and to discredit the union which he leads. It is also concerned that, in view of the public statements of government and military officials that the KMU is a "front" for the CPP/NPA and condemning the union for contributing to acts of violence during the general strike, that Crispin Beltran's trial on these political charges may not meet internationally recognized standards of fairness.

6. CONCLUSIONS AND RECOMMENDATIONS

Dozens of trade unionists in the Philippines have been the victims of a range of serious human rights violations since the change of government in 1986. Union members are believed to have been killed, either by members of the official security forces, or by members of semi-official armed groups acting with their cooperation or acquiescence. Trade unionists have "disappeared" after abduction by military, police or paramilitary forces. Activists within the labour movement have also been among the victims of arbitrary arrest and imprisonment, and some have been tortured or ill-treated after arrest by members of the security forces. A number of prominent trade union leaders have been sentenced in trials

⁹ The others charged were: Emilio Bautista, Edwin Castillo, Ricardo Pascual, Eduardo Lazaro, Rodello Pascual, R. Buenaventura, Eduardo Martin, Raymundo Payuno, Geronimo Antonio, Carlito Marcelino, Christopher Agulto, Jessie Mendoza, Crisanto Hernandez, Bernardo Estrella, Esperanza Ignacio, Alfredo Manaol, Lino Santiago, plus four unnamed suspects referred to as "John Does".

which may not have been conducted according to international standards of fairness, and some would be prisoners of conscience if detained on the charges they currently face.

Human rights violations in the Philippines have occurred against a background of armed conflict between government forces and the NPA. Aspects of the government's "total approach" counter-insurgency campaign appear to have created the conditions under which violations against trade unionists, among others, are likely to occur. Within the context of the campaign, the security forces have been granted a considerable degree of autonomy. Activities they describe as falling within the realm of counter-insurgency have not been subject to proper control by government or judicial authorities. Official forces also provide support, which may include training and the provision of arms, for a range of unofficial or semi-official armed groups whose existence is deemed necessary for the successful resolution of the armed conflict. Unofficial and semi-official groups such as "vigilantes", "goons" and company guards have been responsible for abuses against trade unionists. Government and government-backed forces are effectively permitted to act in defiance of the law and to commit human rights violations against unarmed civilians. The government's persistent failure to ensure that reports of human rights violations are properly investigated, and the fact that few of the suspected perpetrators are brought before the courts. Where members of government or government-backed forces are allowed to commit serious human rights violations with apparent impunity, the practice is bound to continue.

Blanket condemnation of those indiscriminately dubbed "communists", and the equation of lawful labour protest with the armed opposition movement contributes to a situation in which the targeting of union members is perceived as legitimate. Once labelled as a "communist sympathizer" or a member of the CPP/NPA, the likelihood of an individual becoming the victim of summary execution or "disappearance" is greatly increased.

Government and government-backed security forces are by no means responsible for all of the violence directed against trade unionists in the Philippines. Some of the violence on picket lines and some cases of murder can be attributed to company security guards and "goons" acting solely on behalf of private enterprise, apparently without police or military cooperation. Some is probably the responsibility of rival unions, acting with or without the help of management. However, even when company guards or hired "goons" are directly responsible for the deaths of workers, government and military authorities may bear a measure of responsibility. The latter may disregard the activities of such groups, or fail to bring those suspected of violent acts to justice, and this inevitably contributes to the likelihood of further abuses.

Some killings are believed to have been carried out by NPA hit squads, and the NPA is also believed to be responsible for the harassment of those alleged to have "betrayed" the underground movement. Amnesty International does not condone such acts against unarmed civilians. Nevertheless, it believes that however violent the armed opposition

movement, this can never be used to justify the commission of human rights violations by members of the security forces or others acting with their support or acquiescence. Indeed, it believes that it is precisely in such contexts of armed opposition that fundamental human rights need to be protected with extra vigilance.

7.1 Recommendations to the Philippine Government

Amnesty International has welcomed the Philippine Government's ratification of major international human rights treaties, such as the International Covenant on Civil and Political Rights. It notes, however, that the terms of these treaties are binding on the government to provide effective human rights protection, not only in principle but in practice. The organization is concerned that despite the government's expressions of commitment to respect for the human rights of its citizens, trade unionists and others involved in lawful political activities are at risk of serious human rights violations.

The following recommendations identify aspects of government policy and which, in Amnesty International's view, have contributed to a continuing pattern of human rights violations. They suggest measures which, if implemented, would help to ensure that the human rights of Philippine citizens are upheld. Amnesty International urges the government to consider these recommendations, and to take steps to ensure that the right to engage in lawful trade union activity without fear of death, "disappearance" arbitrary arrest or torture, is effectively guaranteed.

Amnesty International urges the government to consider the following:

1. to prohibit explicitly the public political labelling of trade unionists and others engaged in lawful political protest;
2. to ensure strict control, including a clear chain of command, over all officials responsible for arrest, detention and imprisonment, as well as over all officials authorized to use force and firearms;
3. to dismantle both CAFGUs and SCAAs as soon as possible; in the meantime to ensure that all paramilitary units are brought under effective control by the military authorities; to ensure that CAFGU and SCAA members suspected of human rights violations are immediately suspended from active service;
4. to uphold Constitutional provisions prohibiting the maintenance of private armies; to prohibit the participation of company guards, "vigilantes" and "goons" in counter-insurgency operations;

- 5.to prevent military or police cooperation with unlawful armed groups and, in particular, to ensure that the provision of arms to such groups does not occur;
- 6.to initiate an urgent investigation into all reports of human rights violations by "vigilante" groups, company guards and "goons" and to bring to justice the suspected perpetrators; to prosecute members of the security forces found to have been complicit in unlawful activities by members of such groups;
- 7.to review the regulations governing the use of force and firearms and to take effective measures to ensure that only those fully authorized to bear arms are permitted to do so;
- 8.to enforce the legal and constitutional prohibition of incommunicado detention and the use of unofficial places of detention;
- 9.to ensure that all those held in custody are granted immediate access to relatives and a lawyer;
- 10.to establish and maintain both centralized and local public registers of all persons detained and to update these on a daily basis;
- 11.to bring the suspected perpetrators of human rights violations promptly to justice and to try them before a civil court.

APPENDIX I

1. Revised Penal Code, Article 142

Inciting to sedition - The penalty of *prison correccional* in its maximum period and a fine not exceeding 2,000 pesos shall be imposed upon any person who, without taking any direct part in the crime of sedition, should incite others to the accomplishment of any of the acts which constitute sedition, by means of speeches, proclamations, writings, emblems, cartoons, banners, or other representations tending to the same end, or upon any person or persons who shall utter seditious words or speeches, write, publish, or circulate scurrilous libels against the Government (of the United States or the Government of the Commonwealth) of the Philippines, or any of the duly constituted authorities thereof, or which tend to disturb or obstruct any lawful officer in executing the functions of his office, or which tend to instigate others to cabal and meet together for unlawful purposes, or which suggest or incite rebellious conspiracies or riots, or which lead or tend to stir up the people against the lawful authorities or to disturb the peace of the community, the safety and order of the Government, or who shall knowingly conceal such evil practices. (As amended by Com. Act. No. 202).

2. Section 263(g) of the Labor Code (Selected passages)

"When in his opinion, there exists a labor dispute causing or likely to cause a strike or lockout in an industry indispensable to the national interest, the Secretary of Labor and Employment may assume jurisdiction over the dispute and decide it or certify the same to the Commission [The National Labor Relations Commission] for compulsory arbitration. Such assumption or certification shall have the effect of automatically enjoining the intended or impending strike or lockout as specified in the assumption or certification order. If one [strike or lockout] has already taken place at the time of assumption or certification, all striking or locked out employees shall immediately return to work and the employer shall immediately resume operations and re-admit all workers under the same terms and conditions prevailing before the strike or lockout. The Secretary of Labor and Employment or the Commission may seek the assistance of law enforcement agencies to ensure compliance with this provision as well as with such orders as he may issue to enforce the same...

"...The foregoing notwithstanding, the President of the Philippines shall not be precluded from determining the industries that in his opinion are indispensable to the national interest, and from intervening at any time and assuming jurisdiction over any labor dispute in such industries in order to settle or terminate the same..."

3. **Emergency Memorandum No.5** [Paragraph 1(d)]

"The Secretary of Labor and Employment shall exercise all powers authorized under the law to avert the occurrence of widespread strikes and prolonged work stoppages including the suspension of mass retrenchments which impair the operations of public utilities, businesses affected with public interest, and those indispensable to the national interest".

APPENDIX II**LIST OF CONVENTIONS RATIFIED BY THE PHILIPPINE GOVERNMENT**

Convention Number	Title	Date adopted by ILO	Date Ratified by Government
17	Workmen's Compensation (Accidents)	1925	17 Nov 1960
23	Repatriation of Seamen	1926	17 Nov 1960
53	Officers' Competency Certificate	1936	17 Nov 1960
59	Minimum Age (Industry) (Revised)	1937	17 Nov 1960
77	Medical Examinations of Young Persons (Industry)	1946	17 Nov 1960
87	Freedom of Association & Protection of the Right to Organize	1948	29 Dec 1953
88	Employment Service	1948	29 Dec 1953
89	Night Work (Women) (Revised)	1948	29 Dec 1953
90	Night Work of Young Persons (Industry) (Revised)	1948	29 Dec 1953
93	Wages, Hours of Work & Manning (Sea) (Revised)	1949	29 Dec 1953
94	Labour Clause (Public Contracts)	1949	29 Dec 1953
95	Protection of Wages	1949	29 Dec 1953

98	Right to Organise & Collective Bargaining	1949	29 Dec 1953
99	Minimum Wage-Fixing Machinery (Agriculture)	1957	29 Dec 1953
100	Equal Remuneration	1951	29 Dec 1953
105	Abolition of Forced Labour	1957	17 Nov 1960
110	Plantation	1958	10 Sep 1968
111	Discrimination (Employment & Occupation)	1958	17 Nov 1960
122	Employment Policy	1964	2 Dec 1974
141	Organization of Rural Workers & their Role in Economic & Social Development	1975	May 1979
144	Tripartite Consultation (International Labour Standards)	1976	April 1991
149	Employment & Conditions of Work & Life of Nursing Personnel	1977	May 1979

Total Ratified: 22