



117th ASSEMBLY OF THE INTER-PARLIAMENTARY UNION AND RELATED MEETINGS

Geneva, 8-10.10.2007

Governing Council
Item 11(a)

CL/181/11(a)-R.3
Geneva, 6 October 2007

COMMITTEE ON THE HUMAN RIGHTS OF PARLIAMENTARIANS

REPORT OF THE DELEGATION ON ITS MISSION TO THE PHILIPPINES

18 - 21 April 2007

► PHILIPPINES

CASE No. PHI/01 - CRISPIN BELTRAN
CASE No. PHI/02 - SATURNINO OCAMPO
CASE No. PHI/03 - JOEL VIRADOR
CASE No. PHI/04 - TEODORO CASIÑO
CASE No. PHI/05 - LIZA MAZA
CASE No. PHI/06 - RAFAEL MARIANO

CONTENTS

	Page
A. Background to and conduct of the mission	2
B. Political background	3
C. Case summary and concerns expressed by the Governing Council	3
D. Information gathered	5
E. Concluding remarks	15
F. Developments following the mission	17

*
* *

Annex 1 Resolution adopted unanimously by the IPU Governing Council at its 180th session (Nusa Dua, Bali, 4 May 2007)

Annex 2 Letter dated 17 April 2007 addressed to Mr. Pier Ferdinando Casini, President of the IPU, by Mr. Jose de Venecia, Speaker of the House of Representatives of the Philippines

Annex 3 Preliminary statement of the delegation of the Committee on the Human Rights of Parliamentarians on its on-site mission to the Philippines (3 May 2007)

A. BACKGROUND TO AND CONDUCT OF THE MISSION

1. Having received communications regarding the situation of Representatives Crispin Beltran, Satur Ocampo, Liza Maza, Teodoro Casiño, Joel Virador and Rafael Mariano, the Committee on the Human Rights of Parliamentarians declared their cases admissible at its 113th session (May 2006). It decided to submit the case of Mr. Beltran - who had been arrested - to the Governing Council, while examining the case of the remaining five parliamentarians under its confidential procedure. In October 2006, it merged Mr. Beltran's case with that of the other five parliamentarians and submitted it as a single case to the Governing Council. In the resolution it adopted at its 179th session (October 2006), the Governing Council expressed concern at the charges and the judicial proceedings of the parliamentarians concerned and called for the immediate release of Mr. Beltran. By the time the Committee held its 116th session (January 2007), the situation remained unchanged, in particular Mr. Beltran remained in detention. Considering that it would hold its next session during the 116th Assembly of the Inter-Parliamentary Union, in Nusa Dua, Bali (Indonesia) and that, moreover, it had not received any substantive reply from the competent Philippine authorities to its questions regarding this case, the Committee felt that it would be appropriate to carry out an on-site mission to gather as detailed information as possible on this case from the competent authorities, the parliamentarians concerned and any other competent parties. The Committee's President, Senator Franklin Drilon, being inhibited by its procedural rules from dealing with this case, the Committee requested its Vice-President, Senator Sharon Carstairs, and the Secretary General, to carry out the mission. Initially planned to be conducted after the Committee's 117th session, at the suggestion of the Speaker of the House of Representatives, the mission was carried out from 18 to 21 April 2007.

2. The delegation wishes to express first of all its deep gratitude to the House of Representatives and the Senate for the excellent organization of the mission which both Houses arranged at such short notice and at a particularly busy time leading up to the elections of 14 May 2007 when the electoral campaign was already in full swing. Time constraints therefore prevented the Speaker of the House of Representatives and others to hold separate meetings with it. It is therefore all the more grateful to the Speaker for having hosted a dinner at which it was able to meet with members of the House and government officials. It is clear, however, that that social event was not conducive to raising and discussing certain issues regarding the case in question. The delegation, moreover, expresses its sincere thanks to the authorities with whom it met for their hospitality – some of the meetings were indeed working lunches - and their spirit of cooperation. It wishes to point out in particular that it was able to freely meet with Mr. Beltran in his hospital room at the Philippine Heart Center. In conclusion, the delegation was able to fully carry out its mandate.

Programme

The delegation met with the following persons:

1. Parliamentary authorities

- Mr. Jose de Venecia, Speaker of the House of Representatives and members of the House at the dinner hosted by the Speaker, among them
- Representative Bienvenido Abante, Chairman of the Human Rights Committee of the House of Representatives and Representative Edcel Lagman

2. Government and law enforcement officials

- Mr. Raul Gonzales, Secretary of the Department of Justice
- General Hermogenes E. Ebdane, Secretary of the Department of National Defence
- Mr. Ricardo Blancaflor, Undersecretary of the Department of National Defence
- General Avelino I. Razon, National Police Chief for Administration and Police Deputy Director
- Mr. Geary Barias, Director for Investigation and Detective Management
- Mr. Norberto B. Gonzalez, National Security Adviser
- Mr. Eduardo Ermita, Executive Secretary at the dinner hosted by Speaker Jose de Venecia

3. Prosecutorial authorities

- Mr. Jovencito R. Zuno, Chief State Prosecutor
- Mr. Richard Anthony D. Fadullon, Assistant Chief State Prosecutor

4. Administrative authorities

- Mr. Christopher O. Lock, Chief Administrator of the Supreme Court

5. Commission of Elections (COMELEC)

- Mr. René Sarmiento, Member of COMELEC

6. National Human Rights Commission

- Dr. Purificación C. Valera Quisumbing, President of the National Human Rights Commission

7. Parliamentarians concerned and their lawyers

- Representatives Crispin Beltran, Saturnino Ocampo, Teodoro Casiño, Rafael Mariano and Liza Maza
- Mr. Beltran's wife
- Attorneys Neri Javier Colmenares and Romeo T. Capulong

8. Human rights organizations

- Mr. Renato Mabunga, Secretary General, Philippine Alliance of Human Rights Advocates

B. POLITICAL BACKGROUND

The case has to be placed in the following political context: In January 2006, President Arroyo issued Executive Order 493, establishing the Inter-Agency Legal Action Group (IALAG) to prepare cases of rebellion and sedition against suspected enemies of the State¹. In the early morning of 24 February 2006, the military announced that it had foiled a plot to unseat President Gloria Macapagal-Arroyo. Before noon of the same day, President Arroyo issued Presidential Proclamation 1017 placing the country under a state of national emergency and issued General Order No. 5 entitled "Directing the Armed Forces of the Philippines in the face of national emergency, to maintain public peace, order and safety and to prevent and suppress lawless violence". As a consequence, all rally permits issued to various groups by the Mayor of Manila to celebrate the 20th anniversary of the end of the Marcos regime were revoked, and the rallies of several groups were indeed dispersed. On 3 March 2006, the widely criticized state of emergency was lifted and Order No. 5 was subsequently declared unconstitutional by the Supreme Court.

C. CASE SUMMARY AND CONCERNS EXPRESSED BY THE GOVERNING COUNCIL

1. Case summary

1.1. The parliamentarians concerned were elected in 2004 in accordance with the party-list system designed to ensure the representation of marginalized groups of society (Republic Act 7941, also known as Party-List System Act). Representatives Ocampo and Beltran are serving their second parliamentary mandate, their parties, Bayan Muna and Anakpawis, respectively, having participated also in the 2001 legislative elections. Rafael Mariano belongs to Anakpawis, Teodoro Casiño and Joel Virador are members of Bayan Muna and Liza Maza of Gabriela Women's Party. The six Representatives are commonly referred to as the "Batasan 6".

1.2. On 25 February 2006, one day after the announcement of the state of national emergency, Mr. Beltran was arrested without an arrest warrant and taken to the Philippine National Police Headquarters at Camp Crane. It is only there that he was shown an arrest warrant on an inciting-to-sedition charge filed against him by the Marcos regime in 1985. Although his lawyers told the police that the warrant had long been quashed, the police refused to release him. Later that day, an accusation was filed against him for allegedly inciting-to-sedition at a rally held on 24 February 2006 in commemoration of the ousting of the Marcos regime. Although counter-affidavits were issued stating that Mr. Beltran had never given any such

¹ According to Executive Order 493, IALAG's mandate is "to provide effective and efficient handling and coordination of the investigative and prosecutorial aspects of the fight against threats to national security". Its main task is to coordinate all national security cases, which, according to the Order, are rebellion, sedition and related offences and "national interest cases that threaten national security". IALAG is chaired by the National Security Adviser and comprises representatives from the Department of Justice, National Defence, Interior and Local Government, National Intelligence Coordinating Agency, the Armed Forces, the Philippine National Police, the National Bureau of Investigation and such other units tasked by the National Security Adviser.

speech and that, moreover, he was covered by parliamentary immunity, an indictment was filed with the courts on 27 February. On 27 February 2006, two charges of rebellion were brought against him, one of conspiring with Lt. San Juan to overthrow the government (*People of the Philippines vs. 1Lt. Lawrence San Juan, PA, Crispin Beltran et. al*) and another linking him (and the other parliamentarians concerned as well as others - see below D.4.) to the Communist Party of the Philippines and its policy of rebellion. On 13 March 2006, the Quezon City Metropolitan Court, which was handling the inciting-to-sedition case, ordered his release since his arrest violated his parliamentary immunity. Mr. Beltran was, however, kept in detention on the ground that rebellion was a continuing crime. Ruling on a petition for judicial determination of probable cause in the first rebellion case, on 31 May 2006, Judge Encarnación Moya found probable cause against Mr. Beltran and issued a commitment order against him.

1.3. On 25 February 2006, a team of police officers attempted to arrest Representative Satur Ocampo. They had no arrest warrant. On 27 February 2006, charges of rebellion were brought against him and Representatives Virador, Casiño, Maza and Mariana on account of their alleged involvement in a conspiracy with right-wing soldiers to overthrow President Gloria Macapagal-Arroyo. Knowing that they faced arrest, on 27 February 2006 all five parliamentarians sought protective custody in the House of Representatives which, on 28 February, affirmed their right to due process and unanimously granted them protective custody.

1.4. On 21 April 2006, the State Prosecutor issued an amended indictment for the crime of rebellion against a large number of accused, including the parliamentarians concerned. They were all now accused of having "on or about the year 1990 and for some time prior and subsequent thereto ... chosen to carry out their rebellion activities" linking them to the Communist Party and its rebellion activities and to the alleged conspiracy with rebel soldiers within the Armed Forces to overthrow the government. On 4 May 2006, Judge Delorino of the Regional Trial Court for Makati City ruled that the "*amended information*" cannot be considered as such since it is, by its very form and substance, a new information and hence should not be admitted. To rule otherwise would amount to allowing a new information to supersede the original information which the prosecution earlier proclaimed as valid and sufficient in all its averments. Furthermore, not to admit it would be to uphold the primordial rights of the accused as guaranteed under the ... Constitution". The case was consequently dismissed (expunged from the records of the case) and the parliamentarians concerned left the House of Representatives. However, as stated above, Mr. Beltran remained in detention.

1.5. On 11 May 2006, a new case was filed against them, largely based on the previous one that had been dismissed, bringing against the parliamentarians concerned and others three charges of rebellion, alleging that as members of the underground Communist Party (CPP) or affiliated organizations created by them as legal front organizations of the CPP, they committed the crime of rebellion by conspiring, confederating and mutually helping each other to overthrow the government by using their position as legislators to ensure the victory of the armed struggle, inter alia by providing the funds allocated to them as legislators to finance the armed rebellion and by organizing protest marches which were to culminate on 24 February 2006, when the CPP legal front organizations, led by the parliamentarians concerned, would converge with the military and then, on 1 May 2006, overthrow the government.

1.6. Acting upon a petition for certiorari and prohibition, on 5 June 2006, the Supreme Court issued a Status quo order ordering, commanding and directing the Department of Justice (DOJ), the State prosecutors and the Police to maintain the status quo and refrain from conducting any further preliminary investigation pending further orders from the court.

1.7. Upon Judge Delorino's dismissal of the amended indictment of 21 April 2006, the Department of Justice filed a motion for Judge Delorino to decline to act in the case for having been biased in handling it, which she indeed did. Another Judge to whom the case was then transferred declined to serve on it on her own initiative and the case was transferred to Judge Alameda from another branch of the Makati Regional Court. On 22 August 2006, he suspended proceedings against Representatives Ocampo, Virador, Casiño, Maza and Mariano "in deference to whatever resolution the Supreme Court will issue on the pending certiorari proceedings". This decision, however, does not concern Mr. Beltran, owing to the court's decision of 31 May 2006, referred to above, finding probable cause in his case. A motion for reconsideration of that decision was rejected on 29 August 2006 on the ground that rebellion was a continuing offence and the accused was subject to arrest without warrant.

1.8. The Secretary of Justice, in an ABS-CBN television interview on 31 March 2006 said "we will just declare probable cause, then it's up to the court to decide" and President Arroyo stated in an interview with the Philippine Star on 12 March 2006 that the parliamentarians concerned "committed a crime. They are committing a continuing crime. And, we have laws to deal with that. In fact, they are disrupting the work in Congress with what they are doing".

1.9. On several occasions (May, June and July 2006) Mr. Ocampo faced difficulties in travelling abroad, his name having been put on the watchlist. The Secretary of Justice and the Cabinet Oversight Committee on Internal Security barred Mr. Ocampo from travelling to Jakarta, even though he had been granted official authorization by the Speaker of the House of Representatives to do so. On 12 June 2006, Mr. Ocampo was again prevented from travelling abroad, this time to attend the 95th International Labour Conference. On 20 June 2006, the Makati Regional Court granted him leave to travel abroad; despite this, the Department of Justice appears to have kept his name on the list of persons subject to a travel ban as he encountered difficulties in leaving the country to travel to Geneva in July 2006. On 28 October 2006, the Secretary of Justice again prevented Mr. Ocampo from travelling abroad and required him to sign an undertaking not to criticize President Arroyo. Mr. Ocampo considered this an infringement of his right to freedom of expression and refused. It was only the following day, after Mr. Ocampo had secured a written court order allowing him to travel abroad, that he was allowed to leave.

1.10. On 16 March 2007, Representative Ocampo was arrested on account of a multiple murder charge brought against him by a Judge in Leyte (Case No. H-1581). The same day, he filed a petition for certiorari and prohibition with the Supreme Court, which set a hearing for 23 March. Despite this, the police reportedly attempted to transfer Mr. Ocampo to Leyte, something which he feared would pose a threat to his life and opposed. He was reportedly already on a plane to Leyte when the police received an order to return to Manila.

2. Concerns expressed by the Governing Council of the IPU in the resolution it adopted at its 179th session (October 2006)

See Annex 1.

D. INFORMATION GATHERED

1. Background/general information provided

1.1. In their meetings with the delegation, the authorities all concurred that the case should be situated in the context of the 39 years of insurgency in the Philippines, against which the State had to defend itself. They all stated as a matter of fact that the parliamentarians concerned were members of the Communist Party of the Philippines (CPP) and Representatives Ocampo and Beltran members of the party's Central Committee. They likewise stated as a matter of fact that their political parties were what they referred to as "front organizations" of the Communist Party. In this respect, the Secretary of Defence said that in 1984, when he was a regional commander of the Philippine Armed Forces, he had captured a regional commander of the National People's Army (NPA) and convinced him to work for the Army (but not to renounce his ideology). He was thus able to obtain information about the organization of the Communist Party, its military branch and other organizations like the United Front, that is to say the "above-the-ground" organizations of the CPP such as the parties to which the parliamentarians concerned belong. He mentioned as a major problem the CPP committees in the "Barrios" which, according to him, were in charge of the politicization of the population and had to provide support to the CPP armed component. The delegation understood that he also linked these committees to the political parties to which the parliamentarians concerned belong.

1.2. The National Security Adviser likewise insisted on the "underground and overground" strategy of the CPP. He told the delegation that there was ample proof of the close relationship between the CPP and the NPA. For example, when the Philippine Armed Forces invaded an NPA camp, they often found propaganda material of the political parties in question; also the Armed Forces observed that NPA rebels seek refuge in the local Bayan Muna party offices. According to him, NPA rebels carried ID cards of the political parties in question. As regards the numerical importance of the NPA, the authorities specified that the number of NPA rebels had decreased from 25,000 in 1986-87 to between 5,000 and 7,000 at present.

1.3. The authorities also referred to the Anti-subversion law of 1992 and its repeal in 1992 by Republic Act 7636, which legalized the CPP. The National Security Adviser stated in this context that in 1986, an unconditional amnesty (for political crimes) had been granted, after which the Communist Party went back to normal life, but never sought legal recognition as a political party. However, for the Social Democratic Party which he had set up, it had taken two years to obtain certification. The police and the Armed Forces had had to evaluate whether or not his party was legitimate. As regards the question of amnesty, the Secretary of Justice stated that one must apply for amnesty and accept one's guilt.

1.4. Given that the CPP had not renounced armed struggle, had not dissolved (demobilized) the NPA and rejected the Philippine Constitution, Commissioner Sarmiento and the National Security Adviser expressed the view that the party was in fact not legal and would not obtain legal recognition. Regarding the case of the "Batasan 6", the National Security Adviser explained that in fact, the objective of the case brought against the parliamentarians concerned was to test whether the party was legal or not. In this respect, he mentioned that some States, like Australia and the United States of America, had declared the CPP illegal. Mr. Gonzales stressed that the government had wished to "involve everyone into the peace process, including the CPP". However, once the elections were over, the peace movement disappeared. The question put to the CPP was, do you want to be legitimized or to continue the armed rebellion? He insisted that today rebellion could no longer be considered a legitimate means of obtaining political change and that the only way to obtain such change was through peaceful political struggle. He ensured the delegation that "we are not out to oppress anyone or any political group; we appeal for understanding rather than condemnation".

1.5. Stating that the absence of a law on rebellion in the Philippines posed a problem, the Secretary of Defence mentioned the Human Security Act, recently adopted in Parliament which, however, would only enter into force after the legislative elections scheduled for 15 May 2007 and was therefore not applicable to the case in question. He stated also that the Act was a source of potential abuse because of the possibility of prolonged periods of pre-trial detention. According to the National Security Adviser, the Act was designed to fight the Muslim rebels and not the communist rebellion. He would have preferred to have a specific law against the communist rebellion. The delegation's attention was drawn by non-governmental interlocutors to the fact that the Anti-terrorism Council to be established by virtue of the Act², will be competent to categorize organizations as terrorist independent of their religious or any other affiliation³, something which, in their view, left the door wide open to abuse.

1.6. The delegation was briefed extensively by the Secretary of Defence and the Army officials present at the meeting with him as well as by the Deputy Chief of the Philippine National Police (PNP) and police officers on the efforts of their respective Departments/Agencies to promote human rights. As regards the Army, the Secretary of Defence stressed that a human rights education programme had been in existence for the past 20 years (since the 1980s) and had been innovated recently to increase the hours dedicated to human rights education and to put more emphasis on State accountability. Reference was made to the cooperation with the National Human Rights Commission (which previously had been charged with overseeing Army underground activities to ensure that no human rights violations occurred), the human rights education programmes for soldiers and other armed units, multi-agency efforts in the field of human rights and the Department's cooperation with the Ateneo Law School. It was specifically mentioned that the human rights programmes put emphasis on "top-down responsibility" (the chain of command). The Secretary of Defence also mentioned several projects aiming at the reintegration of rebels, for example through the organization of cooperatives. He referred more specifically to a project implemented in 1985 in the Katagán province and stated that most of those who had participated were later killed. Another project he mentioned was the Kalangi Priority Programme, where various government departments collaborated on the construction of roads and school buildings and the provision of technological assistance in agriculture. The Secretary of Defence complained about the "misconception on how we provide services". Referring to the high incidence of death among security personnel (50% survival rate for lieutenants, for example), he said that sometimes one could believe that human rights "were only for the other side" and that the military had no human rights.

1.7. The PNP, for its part, briefed the delegation extensively on Task Force Usig, established in May 2006 to promptly investigate alleged killings and initiate prosecutions. Little time was therefore left to delve into the cases in question.

1.8. The Secretary of Defence and the Secretary of Justice both also referred to the lack of judges (for example, in some regions there was only one regional trial court judge for 3 provinces) and the lack of prosecutors.

² According to Section 53 of the Act, the Anti-Terrorism Council shall be composed of the Executive Secretary (Chairperson), the Secretary of Justice (Vice-Chairperson), the Secretaries of Foreign Affairs, National Defence, Interior and Local Government, Finance and the National Security Adviser.

³ Section 17 of the Act reads as follows: Any organization, association, or group of persons organized for the purpose of engaging in terrorism, or which, although not organized for that purpose, actually uses the acts to terrorize mentioned in this Act or to sow and create a condition of widespread and extraordinary fear and panic among the populace in order to coerce the government to give in to an unlawful demand shall, upon application of the Department of Justice before a competent Regional Trial Court, with due notice and opportunity to be heard given to the organization, association or group of persons concerned, be declared as a terrorist and outlawed organization, association, or group of persons by the said Regional Trial Court.

1.9. The Chairperson of the National Human Rights Commission (NHRC), apart from explaining the functioning of the Commission, referred to the visit in February 2007, of the Special Rapporteur on extrajudicial, summary or arbitrary executions of the United Nations, Philip Alston, to the Philippines. She said that, as a result of his visit, some of her earlier recommendations, namely the establishment of special tribunals to fast track human rights cases as had been done in the case of former President Estrada, had now been taken up. Ninety-nine special tribunals to fast track human rights cases had been established and all courts had been asked to check whether they had any cases which should be dealt with by those courts. However, for the time being, no cases had been brought before them. She felt that the cases of the parliamentarians concerned could well fall within the competence of these tribunals and be dealt with by them. As far as the Commission's role was concerned, the Chairperson stated that it was one of prevention and promotion. It had no judicial powers and had thus no competence in this case. The Commission was obliged to refer complaints to other competent institutions, such as the Ombudsmen, the Department of Justice, the National Police Commission or the Armed Forces. The Commission was thus losing control over a case and the human rights aspects could go unnoticed. However, the Commission was competent to act as *amicus curiae* and it would certainly follow the proceedings in the case in question.

1.10. The Secretary of Defence and the National Security Adviser expressly stated that the authorities believed in the courts and would respect court decisions. The courts had the final say.

1.11. The delegation was told that, in the pursuit of the Government's fight against supposed enemies of the State, a National Internal Security plan comprising a plan of implementation and order of battle had been drawn up. In 2005, a TV station had even diffused a spot entitled "Know your enemy" prepared by the General Headquarters of the Armed Force in which 54 organizations and groups were named as "legal fronts" of the CPP and thus "enemies" of the State⁴. All this explained the rising number of extrajudicial executions. 127 members of Bayan Muna, 40 members of Anakpawis and 2 members of Gabriela Women's Party have, according to the information provided to the delegation been extrajudicially executed during President Arroyo's tenure.⁵ Moreover, military troops were now not only stationed in rural but also urban areas, a campaign that had been qualified by military leaders as a campaign "to win the hearts and minds of people". General Palparan, who was widely held to be responsible for exactions of the Armed Forces and reportedly had not rejected responsibility in this regard, had been praised by the President in her 2006 State of the Nation Address for continually defeating perceived enemies of the State. The political parties in question were particularly targeted since their representatives had all voted in favour of an impeachment motion for electoral fraud and corruption brought against her in the House of Representatives in July 2005. The government feared that a strengthening of these parties could eventually lead to a successful impeachment and had therefore to be prevented. Moreover, following the impeachment motion, the President announced a constitutional reform process which would allow her to stay in power.

1.12. During the dinner he hosted, Speaker de Venecia handed over to the delegation a letter in which he invited the Inter-Parliamentary Union to help the Philippine Government work for the resumption of the stalled peace negotiations with the CPP-NPA. A copy of the letter is attached as Annex 2.

2. The situation of Mr. Crispin Beltran

2.1. Conditions of detention

2.1.1. The delegation visited Mr. Beltran, who is now 74 years old, on 20 April in his hospital room at the Philippine Heart Center to which he had been transferred on 25 April 2006. Mr. Mariano as well as members of the Free Ka Bel movement were also present. At the time of the visit, there was no police presence either outside or in the immediate vicinity of the room. However, the delegation was told that normally, between four and five police officers were permanently posted at the entrance of his room and routinely used his bathroom and watched TV in his room. Mr. Beltran's room is located in a quiet wing, apparently away from other patients' rooms. It is small (approximately 10-12 m² in area) and dark. Apart from the entrance, it has a door with a tainted glass pane leading to a balcony, which he, however is not authorized to use. The delegation was told that he also needs special permission to take the elevator. Mr. Beltran suffers from various ailments, such as diabetes, chronic anaemia, arthritis and high blood pressure. At the time of the visit, Mr. Beltran was in good spirits. He told the delegation that during his detention at Camp Crane, where he had initially been held, his state of health had considerably worsened.

⁴ According to documents provided to the delegation, apart from the political parties in question, the list reportedly comprises also the Catholic Bishops Conference, a Catholic Welfare Organization established in 1945, or the Free Legal Assistance Group, founded in 1974 to provide free legal services to victims of human rights violations in the martial law era.

⁵ Figures are as of 8 February 2007.

During the period of martial law (1972-1981) he had in fact been tortured in Camp Crane and detained there, memories which gave him nightmares and made his blood pressure rise considerably. The delegation understood that, on the order of the court, Mr. Beltran has to pay his hospital bills and also for ambulances. It is the Free Ka Bel Movement which is raising money to cover these costs.

2.1.2. When the delegation raised the attempts made by police in October 2006 to transfer Mr. Beltran back to the PNP Hospital at Camp Crane, the Deputy Police Director stated that any transfer of a detainee or prisoner from one place to another could only be done upon a court order.

2.2. Arrest, detention and judicial proceedings

2.2.1. Mr. Beltran confirmed that three charges of rebellion were pending against him, one was being heard (*People of the Philippines vs. 1Lt. Lawrence San Juan, PA, Crispin Beltran et.a*) and the two others were included in the status quo order of the Supreme Court in the rebellion case concerning him and the other parliamentarians concerned. After legal redress at the lower court levels had been unavailing, a petition for release on bail as well as a petition for prohibition and certiorari in the first case had been filed with the Supreme Court, where it was pending. On 8 September 2006, he had also filed a complaint with the Ombudsman (Office of the Deputy Ombudsman for the military and other law enforcement offices, which is also competent for members of parliament) for violation of his parliamentary immunity and arbitrary detention. Documents provided to the delegation show that on 20 February 2007, the Office ordered the respondents, prosecutors and police officers to file counter-affidavits, which they did on 14 March 2007 and 23 March 2007, respectively.

2.2.2. From the documents provided to the delegation, the following details appear regarding Mr. Beltran's arrest on 25 February 2006, at 10.10 a.m.: Mr. Beltran was arrested by officers from the PNP and the Criminal Investigation and Detection Group (CIDG). On arrival at the CIDG Headquarters, they produced a photocopy of an arrest warrant, dated 7 October 1985, issued by the Regional Trial Court of Quezon City in criminal Case No. Q-21905 for inciting-to-rebellion with no bail recommended. Mr. Beltran's lawyers informed the police that the case had been dismissed in 1988 and that, moreover, all political cases, including the one in question, had been quashed by the Minister of Justice under President Corazon Aquino⁶. However, the police argued that only Police Director General Lomibao could order Mr. Beltran's release, and refused for his lawyers, wife or children talk to him. A letter written by his lawyers later that day to Mr. Lomibao was to no avail. At about 10 p.m. the same day, Mr. Beltran was brought to the Quezon City Hall of Justice for an inquest proceeding⁷ for the crime of inciting-to-sedition during a rally held on 24 February 2004 at the People's Power Monument. According to the joint affidavits of the arresting police officers, he reportedly had said the following: *Topple the Arroyo regime; Oust Gloria, Expel from Malacanang the fake president; replace the Arroyo government with a genuine government of the toiling masses*⁸. As a result, "emotions ran high at the rally site and the crowd turned unruly and threw stones at the PNP Crowd Dispersal Contingent". According to the police officers, Mr. Beltran could not be arrested on the spot, because of the "havoc and chaos ensued in the streets causing undue disturbance of peace", for which reason they decided to conduct further operations to track him down. The affidavit goes on to say that record checks revealed that Mr. Beltran had an outstanding warrant of arrest. The police and prosecutors argue that a valid, warrantless arrest had been carried out.

2.2.3. At the inquest proceedings for inciting-to-sedition on 25 February 2007, the prosecutor dismissed Mr. Beltran's defence argument both that media coverage of the rally in question as well as witness testimony could easily dispel the accusation and that Mr. Beltran was covered by parliamentary immunity from arrest since inciting-to-sedition is punishable by a maximum period of imprisonment of not more than 6 years.⁹ It was only on 27 February in the afternoon that an indictment for inciting-to-sedition was actually filed. The same day, Mr. Beltran was taken to the CIDG Headquarters, where a team of prosecutors informed him that they were conducting inquest proceeding on rebellion charges against himself and 1Lt. Lawrence San Juan, who was then also brought into the room. The same police officers who had testified against him in the incitement-to-sedition case now also testified against him in the new rebellion case. On 28 February, an indictment on a charge of rebellion (having conspired and confederated with

⁶ On 13 March 2007, the Quezon City Regional Trial Court, Branch 84 certified that this case had indeed been ordered to be closed.

⁷ Inquest is an informal and summary investigation conducted by a public prosecutor in a criminal case involving persons arrested and detained without the benefit of a warrant of arrest issued by the court, for the purpose of determining whether or not said persons should remain under custody and correspondingly charged in court (Sec.1, Department of Justice Circular No. 61, 21 September 1993).

⁸ "Ibagsak ang rehimen Arroyo; Patalsikin si Gloria; Palayasin sa Malacanang ang huwad na pangulo; Palitan ang gobyernong Arroyo ng tunay na pamalahaang anakpawis".

⁹ Article VI of Section 11 of the Constitution stipulates that members of parliament shall, in all offences punishable by not more than six years imprisonment, be privileged from arrest while the Congress is in session.

Lawrence San Juan and others to take up arms against and overthrow the government) was filed against him and 1Lt. Lawrence San Juan (I:S: No. 2006-226). On 3 March 2006, Mr. Beltran filed a motion for judicial determination of probable cause. On 31 May 2006, the Judge found probable cause and issued a committal order which was upheld on 29 August 2006. On 28 October 2006, Mr. Beltran lodged a petition for certiorari and prohibition against both court orders with the Supreme Court.

2.2.4. The prosecution argues that Article 125 of the Revised Penal Code, which stipulates the periods of detention of persons legally arrested without warrants, has been respected since such persons may be held for a maximum of 36 hours for crimes or offences carrying afflictive or capital penalties, which is the case of rebellion (a capital and non-bailable offence). Likewise, they argue Mr. Beltran's parliamentary immunity had not been violated since Article 145 of the Revised Penal Code, prescribing a penalty of "prison correctional" for any law enforcement official in the case of unlawful arrest or search of a member of parliament, stipulates that such penalty does not apply "if such member has committed a crime punishable under this Code by a penalty higher than "prison mayor" ", which is the case of rebellion (punishable by reclusion perpetua). The Secretary of Justice stated that Mr. Beltran (and his colleagues) had signed a waiver under Article 125 of the Revised Penal Code, waiving the right to question the legality of detention, something which Mr. Beltran (and his colleagues) deny. On the contrary, Mr. Beltran has questioned the legality of his arrest for the inciting-to-sedition and the rebellion charge.

2.2.5. Mr. Beltran and his lawyers stressed that, through the Department of Justice, the prosecution switched legal course of action: first inquest proceedings for incitement-to-sedition were conducted. However, when it turned out that he was covered by parliamentary immunity and would have to be released, the course of action changed to inquest for rebellion proceedings. Mr. Beltran also stated that three different judges had been in charge of this case and that it was now before the fourth judge.

2.2.6. As to the inciting-to-sedition case, documents provided to the delegation show that on 3 April 2006, Mr. Beltran filed a motion to quash the indictment, which was denied in October and November 2006. On 11 February 2007, Mr. Beltran therefore filed a petition for certiorari against the resolution denying the motion to quash, which is pending before Judge Fatima Gonzales-Asdala of Quezon City Regional Trial Court. On April 2007, the respondents filed their comments. However, according to the Assistant Chief State Prosecutor, the sedition case was quashed last year.

2.3. Release on bail

2.3.1. The delegation raised the question of Mr. Beltran's release on bail on the occasion of the dinner hosted by Speaker Jose de Venecia, emphasizing that – given his age and ailments - his release would not pose any security threat. The answer was that rebellion was a non-bailable offence and that the case against him had been thoroughly prepared before being referred to the judiciary.

2.3.2. The Secretary of Justice stated that the court had denied Mr. Beltran's petition for release on bail and stressed, moreover, that the government would oppose Mr. Beltran's release. However, the National Security Adviser expressed the view that it was not in the interest of the government to keep Mr. Beltran in detention and that it was not helping it. He mentioned in this respect that the President had pardoned all prisoners over 70 years. He undertook to bring up this matter at the next session of the government's national security cluster (Cabinet Oversight Committee on Internal Security) of which he and the Secretary of Justice were members. That session was to take place the following Tuesday, 24 April 2007, and the National Security Adviser undertook to inform the Secretary General of any decision taken.

2.3.3. Mr. Beltran and his lawyers mentioned the possibility of release on recognition (transfer to the custody of a reliable citizen), release on humanitarian grounds or transfer to the protective custody of the House of Representatives.

2.3.4. Referring to the difference in treatment of Mr. Beltran and his colleagues who, unlike him, had not been detained, the Chairperson of the NCHR stated that Mr. Beltran should have followed the examples of his colleagues and should have gone immediately to the Supreme Court, but that he was now being tried by the lower courts. The National Security Adviser said that the other five parliamentarians concerned should also have been arrested, but escaped arrest because of the protective custody afforded to them by the House of Representatives.

2.3.5. The delegation was informed that, one of the co-accused in the rebellion case against the six parliamentarians concerned, former Senator Gregorio "Gringo" Honasan, in detention in the so-called "Oakwood case" regarding a mutiny of soldiers in 2003, had been released on 21 April 2007 by a lower court on bail on the ground of mitigating circumstances.

3. The question of "continuing crime"

The delegation was informed that the theory of "continuing crime" originates in a Supreme Court ruling of 9 July 1990 (*Umil vs. Ramos*) on eight petitions for habeas corpus, a copy of which was provided to it.¹⁰ One of the petitioners in this case, Rolando Dural, was arrested on his hospital bed on suspicion of being a member of the NPA, an outlawed subversive organization. The Court held that subversion being a continuing offence, his arrest without a warrant was justified "as it can be said that he was committing an offence when arrested". The judgment does, however, not specify why subversion should be a continuing offence. In his dissenting opinion, Judge J. Sarmiento, referred to the provisions on legally justified warrantless arrest¹¹, and stated the following: "... The rule, furthermore, on warrantless arrest is an exceptional one. By its language, it may be exercised only in the most urgent cases and when the guilt of an offender is plain and evident. What I think we have here is purely and simply, the military taking the law in its hands. By stamping validity to Rolando Dural's warrantless arrest, I am afraid that the majority has set a very dangerous precedent. With all due respect, my brethren has accorded the military a blanket authority to pick up any Juan, Pedro, and Maria without a warrant for the simple reason that subversion is supposed to be a continuing offence". According to the defense lawyers, subsequent cases exist where the Supreme Court hinted that the jurisprudence regarding continuing crime should be changed.

4. Rebellion case against the six parliamentarians concerned

4.1. The National Security Adviser told the delegation that the rebellion case had been filed by the Inter-Agency Legal Action Group and that it had taken them nine months to prepare it. It was a case against 50 persons and aimed at clarifying a number of questions regarding rebellion: there was no clear understanding about what laws have to be used, to see what the government can use to fight rebellion, to set up a legal basis to fight the NPA. For example, knowing that an arrested NPA member would be free in less than three days, the military or police might rather shoot him than let him go back to the mountains. The aim of the case was also to obtain a judicial determination of whether under the law of the Philippines the Communist Party was a legal party or not. The National Security Adviser said that the case was the same against all six parliamentarians. The only difference was that five of them had been granted protective custody by the House of Representatives. As regards the filing of an amended indictment, he said it had never been the decision of IALAG to amend the indictment. The idea had been to file a case with the Department of Justice to institute a preliminary investigation, but then came the status quo order of the Supreme Court. The authorities did not mention any specific criminal activity of the "Batasan 6" regarding rebellion, apart from their allegedly being members of the Communist Party and the National Security Advisor stated that he believed that Mr. Ocampo was not involved in any violence. They referred, however, to instances which, in their view, tended to demonstrate links between the political parties of the parliamentarians concerned and the CPP, such as the one mentioned under D.1. The Secretary of Defence also referred to a video made in 1987, in which CPP founder Jose Maria Sison mentioned Bayan, but made not clear to the delegation how this was linked to the case in question. He said, moreover, that evidence was needed to take the cases to court and that military intelligence had not been sufficient, so that police intelligence had also been necessary. The delegation believes that this statement refers to Republic Act 8551 of 1998 which, in Section 3, mandates the PNP to support the Armed Forces through "information gathering and performance of ordinary police functions" and Executive Order 546 of 2006 which directs it to provide "active support" to them.

4.2. The delegation raised with the parliamentarians concerned the accusations in the indictment in which they are mentioned. For example, as regards the accusation that "in pursuit of the overall objective of the CPP/NPA/NDF, particularly the propaganda campaign to ensure the victory of Bayan Muna in the May 2001 elections, Mr. Ocampo directed Bayan Muna and other legal front organizations to release Major Noel Buan of the Philippine Army, who was then held by the NPA, Mr. Ocampo said that Mr. Buan's release in April 2001 was part of the peace negotiations/suspension of military operations attended by the government with the participation of Cabinet members, parliamentarians, bishops and the International Committee of the Red Cross. As regards the Countryside Development Funds and other funds granted to parliamentarians and their alleged use in 2005 and 2006 by them in favour of the CPP, they stated that any

¹⁰ Supreme Court reports annotated, vol. 187, July 9, 1990, pages 311.

¹¹ Section 5, Rule 113 of the Rules of the Court regarding "arrest without warrant, when lawful" reads as follows: "A peace officer or a private person may, without a warrant, arrest a person (a) when in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offence; (b) When an offence has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it; and (c) when the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another."

financial operation or project had to be approved by the Committee on Appropriations of the House of Representatives, which also made the payments. Moreover, since 2004, no money for such projects had been released to them. Mr. Casiño emphasized that, in the indictment, he was held responsible for actions committed by the NPA since 1969; at a time when he was two years old. As regards alleged meetings with military rebels in February 2006, the parliamentarians concerned told the delegation that, at the alleged dates and times, they had attended parliament, a fact which could be easily proved. As to the allegation that Mr. Beltran attended in August 1992 a plenum of the CPP, the delegation was told that at the time in question, he had in fact been in Europe. The parliamentarians and their lawyers stressed that most of the evidence came out of the Armed Forces archives.

4.3. As regards the status quo order issued by the Supreme Court on 5 June 2006, the Assistant Chief State Prosecutor emphasized that the order had already been moot at the time of its issuance because at the time, the prosecution had already completed the preliminary investigation and the case was pending in Court. The Secretary of Justice expressed his dismay at the petition lodged with the Supreme Court stating that the Makati Regional Trial Court would already have proceeded had the "Batasan 6" not gone to the Supreme Court. As to the stage reached in the proceedings, the Chief Administrator of the Supreme Court stated that the Court was awaiting the submission of the Solicitor General.

5. Multiple murder case against Mr. Satur Ocampo

5.1. According to the documents provided, a multiple murder charge on 15 counts was brought against Representative Ocampo and more than seventy others by the Provincial Prosecutor, Hilongos, Leyte, on 16 February 2007. It followed a complaint by the PNP made after the discovery and unearthing, on 26 August 2006, of a mass grave by the Armed Forces. The mass grave was discovered in September 2006, after a witness testified on disappearances and executions of CPP members considered to be military spies carried out in the course of so-called "Operation Venereal Disease" in the mid-1980s. Private complaints were also filed by the family members of the victims. The authorities stated with regard to the timing of those complaints that witnesses had so far been reluctant to come forward as they had feared for their safety. The indictment accuses Mr. Ocampo of having come personally to Leyte, in 1984, to attend a CPP meeting at which implementation of the said Operation was decided, and that thereafter, there were continuing abductions and executions of suspected traitors and military sympathizers. Moreover, in 1985, he allegedly directed a CPP member to sentence to death a certain Juanita Aviola and ordered her execution in his presence. The prosecution dropped the charges against four former rebels mentioned in the private complaints, who had testified against Mr. Ocampo, and decided to use them as state witnesses since "they are very vital to the success of the prosecution of the case because without their testimonies, the prosecution will certainly be a failure". Their extrajudicial confessions were made in 2006. On 6 March 2007, the Leyte Regional Trial Court (Judge Ephrem S. Abando) found probable cause against Mr. Ocampo and issued a warrant of arrest for him with no bail recommended. Mr. Ocampo was indeed arrested on 16 March 2007 upon leaving the Supreme Court, where he had lodged a petition for certiorari and prohibition (see 5.4. below). On 3 April 2007, the Supreme Court, pending resolution of the petition on the merits, resolved to order Mr. Ocampo's provisional release upon a cash bond of 100,000 pesos. According to the Chief Administrator of the Court, for the Supreme Court to grant bail in non-bailable offences tends to demonstrate that the evidence is not strong.

5.2. With regard to Mr. Ocampo's arrest on 16 March 2007, the Police stated that he should have been taken to Leyte immediately upon his arrest, but that that had been impossible for organizational reasons. He was therefore first held in Manila and steps were taken to transfer him to Leyte, in accordance with the arrest warrant. They confirmed that Mr. Ocampo was already on the plane, when the court order - the delegation understands from the Leyte Regional Court - was received to keep him in the custody of the PNP, Manila, pending the Supreme Court ruling on his petition. The Secretary of Justice and the Deputy Chief Prosecutor criticized the Supreme Court's decision ordering Mr. Ocampo's release on bail, affirming that, in violation of the constitutional right to equality before the law, he had been given a different treatment to others and, despite 15 counts of murder, released on bail of 100,000 pesos only. For example, in the case of members of the Moro Liberation Front, who had been charged in court, the Supreme Court had not released its members. The Secretary of Defence, for his part, said that his first reaction upon learning of Mr. Ocampo's arrest was that it would be an advantage to him.

5.3. The Secretary of Justice and the Assistant Chief State Prosecutor emphasized that, in filing a petition for certiorari and prohibition, Mr. Ocampo had violated fundamental procedural rules. Not only should he not have raised factual issues in the petition, but the Supreme Court was only competent if there was grave abuse of process.

5.4. Mr. Ocampo and his lawyer mentioned first that despite the status quo order issued by the Supreme Court in June 2006, the Department of Justice had directed the prosecution to file a separate murder case against Mr. Ocampo. A motion for a clarificatory hearing having been rejected by the prosecution, Mr. Ocampo filed with the Supreme Court a petition for certiorari and prohibition to set aside the murder case, quash the indictment and the arrest warrant as well as a petition for a temporary restraining order to stop proceedings. On 30 March 2007, a hearing had taken place at the Supreme Court. Three questions were raised, namely whether the petition to the Supreme Court was a proper remedy, whether Mr. Ocampo was denied due process in the conduct of the preliminary investigation and the issuance of an arrest warrant against him (misconduct of the prosecution, failure of the regional trial judge to comply with his duty to ascertain whether there is probable cause and, for example, to assure himself that there were no perjured testimonies) and lastly, whether the charge of rebellion against Mr. Ocampo absorbed the charge of multiple murder, since the rebellion case includes crimes allegedly committed during the same period during which the murders were allegedly committed (1985-1992). The parliamentarians concerned and their lawyer referred in this respect to the Supreme Court ruling *People vs. Hernandez* (1956) which, according to them, was still valid and good law and which had been confirmed by the Supreme Court in two more recent cases. According to the Assistant Prosecutor General, this judgment would apply if the murders had been carried out in furtherance of rebellion, but the multiple murder charge had nothing to do with rebellion and the requisite nexus between multiple murder as a means and rebellion as an end did not exist in this case. As regards the possible outcome of the proceedings before the Supreme Court, the delegation was told that the Court had three options: decide on the merits, remit the case to the court of origin or send the case to the lower court.

5.5. In commenting on the Supreme Court's order to release Mr. Ocampo on a cash bond, the Secretary of Justice and the Assistant Prosecutor General emphasized that the Supreme Court had only raised a procedural problem, namely a violation of the procedural rule whereby for each murder charge, a single indictment had to be filed, whereas the prosecution had filed a single case for the 15 murder counts (only if there was a single criminal intent would it have been possible to file a single case). The Secretary of Justice had therefore ordered the prosecution to redress the defects of the information and 14 amended indictments had been filed. On 10 April 2007, Mr. Ocampo filed a "Motion to hold in abeyance resolution in the admission of the amended information" pending the Supreme Court's ruling on the petition for certiorari and prohibition. Mr. Ocampo informed the delegation that a hearing had taken place in Leyte on 17 April 2007 and that he had been given 15 days to send memoranda. He feared that now that he had been released, the Supreme Court might take time to act, and that the actions of the Secretary of Justice might render its decision ineffective.

5.6. As to the evidence adduced against him, Mr. Ocampo and his counsel affirmed that it was fabricated, based on perjured testimony and pointed in this respect to the following:

- (a) At the time of the alleged facts, Mr. Ocampo was in military custody at Bicutan Rehabilitation Center, Taguig. He had in fact been arrested on 14 January 1976 and cut off from all political activities and affiliations until 5 May 1985, when he had escaped from detention. He was arrested again in July 1989 and remained in detention until his release in September 1992;
- (b) In a first affidavit of 14 September 2006, witness Zacarias Piedad SR. testified that Mr. Ocampo presided a CPP meeting in Leyte in the year 1984 at which the Party's Central Committee allegedly gave the order to cleanse the party from military spies and set up an arresting and investigating team to which he belonged; as a member of that team he witnessed in 1985 that Mr. Ocampo ordered the imposition of the death sentence on Juanita Aviola and that she was executed in front of him by stabbing; on 12 January 2007, Mr. Zacarias Piedad made a supplemental affidavit to change the date of the alleged CPP meeting from 1984 to June 1985; in Mr. Ocampo's view, this was done having discovered from his own counter-affidavit that he had been in detention from January 1976 to May 1985 and could therefore not have attended the alleged meeting;
- (c) In another murder case filed in June 2001 by the prosecutors who is also prosecuting the present case, five of the allegedly identified remains (namely that of Domingo, Gregorio and Leonardo Eras, Juanita Aviola and Concepcion Aragon) had already been unearthed on 27 June 2000, in Barangay Monterico, Baybay; the same skeletal remains were then found again in August 2006 in Mt. Sapang Dako, Inopacan, Leyte; one of the principal witnesses in the present case, Zacarias Piedad Sr. had also been a witness in that earlier case, which was dismissed in January 2005 on the ground that there was no probable cause to warrant the indictment of the accused; Mr. Piedad had retracted all statements and affidavits he had made in this earlier case;

- (d) The skeletal remains have not been identified; the PNP forensic team concluded that "absolute identification could not be made at this time" and recommended additional examinations and tests to "confirm identity and determine the time window of death ... ". These tests have not been done to date;
- (e) The four main witnesses (affiants) were all in military custody; and
- (f) Mr. Ocampo's defence lawyer also stressed that the prosecution had failed to qualify the case as murder since it had failed to show premeditation, intent and other ingredients essential for a crime to be qualified as murder.

5.7. The delegation raised these matters with the Prosecutor General, who referred it to the Solicitor General's "Comment" on the Petition (dated 27 March 2007), a copy of which was provided to it by Mr. Ocampo. Apart from procedural arguments and other arguments which were not raised with the delegation, the Comment states, as regards the validity of the affidavits, that the admissibility or inadmissibility of testimonies and evidence is better ventilated during the trial stage than at the preliminary investigation level; as regards the identity of the remains discovered, that only two skeletons found in June 2000 and August 2006 are the same but that, in the earlier case, the victims had not been sufficiently identified whereas they had been in the present case; as regards the correction of a crucial date by means of a second affidavit, the Comment says that Mr. Piedad's supplemental affidavit merely corrected some mistakes in the original affidavit considering that a considerable period of time had elapsed since the time the event took place and that his initial affidavit attesting to Mr. Ocampo's presence during the killing of Juanita Aviola was decidedly relevant; as regards the argument that the earlier case has merely been recycled and that Mr. Piedad simply readapted his earlier testimony which he had moreover recanted, the Comment states that he had not testified in the earlier case and could therefore not have recanted his testimony.

5.8. The delegation was told that in May 2007, the National Security Adviser had asserted that the military had found mass graves in Bukidnon, Mindanao. The governor of the region, Mr. Jose Zubiri stated publicly that this assertion was untrue as no such mass graves existed in his province.

6. Travel ban on Mr. Ocampo (hold departure order)

6.1. Several of its interlocutors, including the President of the National Human Rights Commission, confirmed the understanding of the delegation that, under the Constitution of the Philippines, only a court was competent to prevent a person from travelling abroad. The Department of Justice was empowered only to put a person on a watchlist, but only the courts could issue hold departure orders. If the Department of Justice wanted to prevent someone from going abroad, it needed to apply for a court order. The Secretary of Justice, for his part, affirmed, however, that he had the power to prevent Mr. Ocampo from travelling abroad and to issue a hold departure order. When asked whether he could specify the legal provision empowering him to issue such an order, he said that he had no time to locate that document and complained that "everyone picks on us".

6.2. The Secretary of Justice stated further that Mr. Ocampo had travelled abroad despite an undertaking he had given and had visited José Maria Sison in Belgium. Mr. Ocampo strongly refuted that he had met Mr. Sison and specified that he had been asked to sign an undertaking not to criticize the Government. He refused to do this but, on the advice of his lawyer, undertook to report to the Philippine Embassy, to abide by the law of the Philippines, and not to commit any acts against the Philippines as a country. In this context, Ms. Liza Maza told the delegation that she had never been stopped from travelling abroad and never been asked to sign any undertaking. Since the filing of the rebellion charges, she had travelled twice, once to India and once to Malaysia. Mr. Teodoro Casiño stated that, when travelling to Thailand, he had been asked to sign an undertaking that he would return to the Philippines. He stated his disagreement with such a practice.

7. Nueva Ecija murder cases against Mr. Satur Ocampo, Mr. Teodoro Casiño, Ms. Liza Maza and Mr. Rafael Mariano and a disqualification case brought before the Electoral Commission (COMELEC) regarding their respective political parties: Bayan Muna, Gabriela and Anakpawis

7.1. The delegation was informed that, in December 2006, a triple murder case had been brought against the parliamentarians concerned and others by the Provincial Prosecutor of Nueva Ecija. The victims had been killed in February and December 2001 and May 2004, respectively. According to the documents provided to the delegation, "in the absence of evidence pointing to the true identities of the assailant" the

police had initially placed the cases on follow-up. A breakthrough had then come in November 2006 when a certain Julie Flores Sinohim admitted his complicity in the killings and disclosed that the parliamentarians concerned had conspired and planned (masterminded) the liquidation of Akbayan organizers and supporters, because Akbayan was a rival party and allegedly posed a serious threat to the election bid of Bayan Muna and Gabriela Women's Party.

7.2. The police informed the delegation that they were not investigating this case. According to the Executive Summary of a document entitled "Consolidated Filed Cases against Representative Saturnino Ocampo, et. al" provided by the Prosecutor General, the cases were now undergoing preliminary investigation at the Prosecutor's Office.

7.3. Based on the documents provided, the delegation understands that a petition for cancellation was lodged with COMELEC on 8 January 2007 by Isabelita Bayudang and Medelyn Felipe, the widows of two of the victims. They accused Bayan Muna, Anakpawis and Gabriela Women Party of ordering the murders of their husbands, of intimidating them to prevent them from campaigning for Akbayan party-list and of being front organizations of the CPP. In their response of 25 February 2007, the lawyers of the political parties concerned point to "brazen lies" in the petitions and false allegations, reason for which the parliamentarians concerned had lodged complaints for damages against Isabelita Bayudang and Medelyn Felipe. It should be noted that Akbayan filed a motion before COMELEC manifesting that it had never sanctioned the filing of the disqualification case, has not participated in the preparation of the complaint, nor had been approached at any time by the petitioner for permission, comment or guidance. When asked about the timing of the petitions, the authorities stated that it was incidental that the cases had been brought now (only four months before the elections) before COMELEC.

7.4. The defence counsel of the parliamentarians concerned criticized that COMELEC dealt with this case under its "special action" procedure, and had rejected the request of the defence for a hearing of the witnesses. They affirmed that any petition for cancellation requires due notice and a hearing. Upon their complaint, COMELEC Chairman Abalos had directed the Clerk to correct this state of affairs. However, at the preliminary hearing of the case, after the petitioners had protested, COMELEC decided that summary proceedings would be held. The delegation was told that at that hearing, the accusing women (petitioners) wore scarves so that they could not be identified. The defence counsel stated also that Mr. Beltran's name was mentioned in the COMELEC documents, although his name did not appear in the complaints.

7.5. Mr. Sarmiento confirmed that a petition for the cancellation of registration of the parties concerned had been filed with COMELEC, alleging that they were responsible for the death of two persons and for resorting to violence. An open hearing took place, memoranda were submitted and the case was now pending a resolution by COMELEC. He stated that the decision would be taken soon before the election date (15 May 2007). When asked about grounds for delisting a party, Mr. Sarmiento stated that COMELEC would delist a party if (a) it is not representing the under-represented and (b) does not comply with legal requirements, in particular as regards renouncement of political violence. According to him, the parties had agreed on submitting affidavits and memoranda instead of an extensive hearing, something which the lawyers of the parliamentarians concerned strongly refuted, affirming that they had consistently insisted on the need for hearing of the witnesses. Mr. Sarmiento said that one of the Commissioners felt that if the petitioners did not want witnesses to be present, then this should be so. Mr. Sarmiento stated that he was not aware of whether the murder cases were being tried in court, but said that the courts were the appropriate bodies to try murder cases. He added that COMELEC was a "super body" during election periods and had judicial, quasi-judicial and administrative functions.

7.6. According to the parliamentarians concerned, the names of their political parties on the accreditation lists which had already been placarded, bore an asterix stating "pending outcome of disqualification proceedings". Mr. Sarmiento assured the delegation that the vote ballots would not show such an asterix. However, the delegation was later told that Philippine voters abroad had already been furnished with a list bearing the asterix in question. According to the parliamentarians concerned, this had already created confusion since voters did not know whether their parties would be disqualified or not. They informed the delegation also that the party-list of Alain Peter Gaetano, who is apparently classified as an enemy of President Arroyo, also bore an asterix.

7.7. The delegation was informed that this was not the first petition for the cancellation of Bayan Muna. A similar petition had already been lodged in 2001 with the Supreme Court, which dismissed it, and again in 2004 with COMELEC when a party-list group alleged that Bayan Muna was espousing violence and therefore violated election laws. The petition was also dismissed.

7.8. The delegation was informed that there were 97 party-list organizations. Some of them were alleged to have been set up by the government to prevent the parties in question from obtaining a majority of seats, keeping in mind that 79 parliamentarians can impeach the President. Of the current 24 party-list-representatives, 19 had in fact opted for the impeachment motion concerning President Gloria Macapagal-Arroyo. General Palparan reportedly set up such a list, as did the brother of the COMELEC Chairperson, who allegedly set up a party-list of drivers. Apart from the political parties in question, which had decided to reveal the names of their nominees, the nominees for other parties had not been revealed. Commenting on this, Mr. Sarmiento said that there were different views on this question within the Commission: those who stressed the constitutionally enshrined right to information/access to information and those who felt that, under the party-list law, parties were the candidates and not the party nominees.

7.9. The delegation was told that government officials and the Chief of the Armed Forces, General Esperon, had publicly called for the disqualification of the parties in question. In this connection, it was provided with a document dated 16 October 2006 and signed by the Head of Special Concerns Group of the Office of External Affairs of the Office of the President in which he informs President Gloria Macapagal-Arroyo of the establishment of the Special Concerns Group in view of the 2007 congressional elections. The document seeks financial support for the realization of the following objectives: 1. Provide full support to several COMELEC accredited party-list groups that are ascertained to be pro-administrative and ensure the winning of nine (9) to twelve (12) seats in the House of Representatives; 2. Form a party-list block that will support plans and programmes of the administration and help in countering destabilization moves by the opposition as well as left-leaning party-list groups and 3. Contribute in the overall campaign to substantially lower the number of votes of leftist and left-leaning party-list organizations, and in the process reduce the seats of these anti-administration parties in the House of Representatives.

8. Complaint regarding urban militarization

8.1. The parliamentarians concerned stated that they had lodged a petition with COMELEC regarding the "urban militarization", that is the display of military troops in Manila. According to them, since November 2006, military troops had been displayed in 26 Manila Barangais, which are among the poorest. They had received reports of military personnel asking for the list of members of the parties in question and spreading information that they were terrorists. The military were actively campaigning against the political party-lists. When they raised this matter publicly, the military reportedly provided different answers, stating first that the display of troops was part of civic action to help the poor, then that troops were trained for display abroad until General Esperon lastly said that the troops would be pulled out before the elections and that their display had to be seen in the context of the anti-subversion fight. The delegation was told that the National Human Rights Commission as well as the bishops had reportedly called for the troops to be pulled out, as had President Gloria Macapagal-Arroyo. However, General Esperon reportedly refused to do so, although "calling out powers" must be given in written form and apply only to cases of lawless violence or rebellion.

8.2. COMELEC decided that it was not competent to deal with this matter. According to the Secretary of Defence, the military were in no way involved in the electoral campaign. They were allowed to intervene only if so ordered by COMELEC, for example if COMELEC's safety or the safety of communities were at stake, for example in the case of the presence of armed elements.

E. CONCLUDING REMARKS

1. General remarks

1. At the outset, the delegation wishes to state that governments have a duty to ensure peace and security and must therefore take action to combat unlawful activities which endanger peace and security. There is therefore no doubt that the Government of the Philippines has the right and duty to combat any unlawfully constituted armed force in the country aiming at the violent overthrow of the constitutional order. It is also clear that any such action must remain within the limits of the law and the human rights norms to which the Philippines adheres and has subscribed to as a party to international human rights instruments, in particular the International Covenant on Civil and Political Rights. This implies, among others, respect for freedom of expression, of association and assembly and for the right to participate in the conduct of public affairs.

2. In all the exchanges, the authorities, and in particular the Government officials and prosecuting authorities, expressed their conviction that the parliamentarians concerned were members of the Communist Party. However, as they themselves said, the Party has not been outlawed. The authorities

appeared also convinced that the political parties to which the parliamentarians belong are so-called CPP legal front organizations which use democratic freedoms and guarantees to pursue the CPP's objective of overthrowing the Government. The delegation wishes to place on record that Bayan Muna, Anakpawis and Gabriela are duly constituted political parties under the law of the Philippines which participated in the 2004 elections, and, in the case of Bayan Muna, in the 2001 elections as well. The authorities have not mentioned, nor has the delegation heard of any accusations of any unlawful activities by these parties. On the contrary, a previous petition for the cancellation of the registration of Bayan Muna in the 2004 elections was dismissed in January 2007. There is no court judgment authorizing anyone to label these parties as illegal organizations or their members and leaders as rebels or murderers nor was there at the time a law under which the Government could define these parties and their members as enemies of the State. Apart from the fact that the very notion of "enemies of the State" smacks of political persecution, the delegation fears that the attitude of the authorities reveals a strong presumption of guilt which, in turn, raises serious doubts as to the motives underlying the proceedings in question.

3. These concerns are compounded by the following:

- The proceedings were instituted in the framework of the Government's fight against perceived or supposed enemies of the State. The Inter-Agency Legal Action Group (IALAG) was established precisely to file rebellion cases. It is relevant to state that the parliamentarians in question and their political parties are among the most outspoken critics of President Arroyo's Government and its policies, and have supported the impeachment motion brought against President Arroyo in 2005.
- The sequence and tenacity of the authorities in the filing of sedition, rebellion and murder charges and, more recently disqualification cases against Bayan Muna, Anakpawis and Gabriela lends the impression that everything is being done to remove the parliamentarians concerned and their parties from the political process. It is difficult to believe that the cases were brought by pure coincidence, as it was claimed before the delegation with respect to the disqualification case. The delegation notes that, according to the National Security Adviser, it took the IALAG nine months to document the rebellion case which, in his view, was therefore a well-prepared case. If this is so, the delegation fails to understand why an incitement-to-sedition case was first brought against Mr. Beltran rather than the rebellion case, why the first rebellion case against him is barely one page long and why the rebellion case against all the six parliamentarians had to be amended?
- The rebellion charges remain unchanged and are sweeping, broad and unsubstantiated. The delegation has found nothing enabling it to alleviate the concerns expressed by the Governing Council of the Inter-Parliamentary Union in this regard. Likewise, in the light of the information provided, it can only corroborate the Governing Council's concerns as to the questionable nature of the evidence produced to support the accusations.
- The fact that the Supreme Court granted Mr. Ocampo bail for a non-bailable offence tends to show that the multiple murder case against him is not very strong.

4. The delegation believes that if, as the National Security Adviser stated, the aim of the proceedings is to determine the legal status of the Communist Party under the law of the Philippines, there are certainly more appropriate means to achieve that purpose than resorting to criminal proceedings of the kind in question.

5. In the light of the above, the delegation can only conclude that the charges brought against the parliamentarians concerned and their parties are politically motivated. It notes that all these cases are pending before the courts and has no doubt that they will be adjudicated by the courts in a fully independent manner and as quickly as possible. It considers these cases to be highly significant for the future of democracy in the Philippines and looks forward to their settlement in accordance with the national and international human rights norms guaranteed under the Constitution of the Philippines and international human rights treaties.

2. Specific remarks concerning

2.1. Mr. Beltran's arrest and detention

- (a) The delegation considers Mr. Beltran's arrest to have been arbitrary. Suffice to mention that he was arrested on an incitement-to-sedition charge while enjoying parliamentary immunity. Such immunity is designed to guarantee the independence of parliament precisely through the protection of its members against unwarranted arrest, and law enforcement agencies are bound

to respect such immunity. The fact that the arresting officer later resorted to an invalid warrant of arrest issued during the martial law period does nothing to improve the situation.

- (b) The delegation invites the authorities to review the notion of a "continuing crime" which has no status under international law. There are particularly grave crimes, such as crimes against humanity, which do not come under the statute of limitations, but this is patently not the case here. The delegation fully concurs with Judge Sarmiento's differing opinion in the *Umil vs. Ramos* case (quoted under D.3.). Mr. Beltran's arrest and detention bears out the dangers pointed out by Judge Sarmiento, namely that the notion of a continuing offence is tantamount to a blanket authority for police and military "to pick up any Juan, Pedro and Maria without a warrant".
- (c) Mr. Beltran does not constitute a security risk, a fact which the authorities did not refute, and the delegation requested that he be released on bail, as had been done, for example, in the cases of Mr. Gregor Honasan and Mr. Satur Ocampo. The delegation was therefore very pleased at the positive reaction of the National Security Adviser in that regard.

2.2. Disqualification case

- (a) The delegation is concerned that an accusation of murder, not yet adjudicated by a court, was the basis for the petition for the cancellation of the registration of Bayan Muna, Anakpawis and Gabriela Women's Party. The delegation believes that holding a political party responsible for the criminal activity of one of its members is not a good democratic practice and that, in any event, delisting a political party based on charges that have not been proven in court could amount to a serious miscarriage of justice.
- (b) The delegation is concerned that, pending the outcome of the proceedings before COMELEC, an asterisk was attached on the electoral list beside the names of the political parties concerned to remind voters that delisting proceedings were pending. The delegation believes that this procedure may be highly prejudicial to any political party, and it invites COMELEC to review it.

2.3. Travel ban

The delegation is deeply disturbed that the Secretary of Justice is unaware of his competence and therefore arrogates powers which he does not have under the law. This sheds a harsh light on due administration of justice and the action of the State prosecution which comes under the authority of the Secretary of Justice.

2.4. Political mediation

The delegation recommends that the IPU respond favourably to the invitation extended to it by the Speaker of the House of Representatives to help the Government work for the resumption of the stalled peace negotiations with the CPP-NPA.

F. DEVELOPMENTS FOLLOWING THE MISSION

1. On 4 May 2007, the delegation issued a preliminary statement regarding the mission in which it expressed inter alia its satisfaction at the prospect of Mr. Beltran's release on bail. The statement can be found in Annex 3.

2. On 24 April 2007, National Security Adviser Roberto Gonzalez informed the Secretary General that the Cabinet Oversight Committee on Internal Security had agreed that it would no longer oppose Mr. Beltran's release, and undertook to inform the Solicitor General accordingly. The Secretary General was authorized to make a public statement to this effect, which he did on TV the same day. His public statement was followed by public statements from the government, reported in the media. Mr. Beltran, who on 23 April 2007 had filed before the Supreme Court a motion to resolve prayer for petitioner to be released, placed on house arrest or transferred to the custody of the House of Representatives, on 25 April filed an amended motion citing, inter alia the IPU mission and the agreement reached. However, to date, the Solicitor General has not filed a memorandum with the Supreme Court to the effect that the government does not object Mr. Beltran's release.

3. On 1 June 2007, ruling on the petition for certiorari and prohibition, the Supreme Court dismissed the rebellion charges against the parliamentarians concerned. The government filed a motion for reconsideration on 12 June 2007, which is now pending before the Supreme Court.

4. On 1 June, COMELEC dismissed the petitions for cancellation of registration of Bayan Muna, Gabriela and Anakpawis for "lack of merit".

Geneva, 25 June 2007



INTER-PARLIAMENTARY UNION

CHEMIN DU POMMIER 5
1218 LE GRAND-SACONNEX / GENEVA (SWITZERLAND)

TELEPHONE + 41 22 - 919 41 50 - FAX + 41 22 - 919 41 60 - E-MAIL postbox@mail.ipu.org

CASE No. PHI/01 - CRISPIN BELTRAN) PHILIPPINES
CASE No. PHI/02 - SATURNINO OCAMPO)
CASE No. PHI/03 - JOEL VIRADOR)
CASE No. PHI/04 - TEODORO CASIÑO)
CASE No. PHI/05 - LIZA MAZA)
CASE No. PHI/06 - RAFAEL MARIANO)

***Resolution adopted unanimously by the IPU Governing Council at its 180th session
(Nusa Dua, Bali, 4 May 2007)***

The Governing Council of the Inter-Parliamentary Union,

Referring to the case of Mr. Crispin Beltran, Mr. Saturnino Ocampo, Mr. Joel Virador, Mr. Teodoro Casiño, Ms. Liza Maza and Mr. Rafael Mariano, incumbent members of the House of Representatives of the Philippines, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/180/12(b)-R.1), and to the resolution adopted at its 179th session (October 2006),

Referring to the preliminary statement of the Committee's delegation following its mission to the Philippines from 18 to 21 April 2007, shortly before the 116th Assembly of the Inter-Parliamentary Union,

Recalling the following information on file:

- Mr. Beltran was arrested on 25 February 2006 in the absence of any legally valid arrest warrant and a charge of sedition, followed later by three charges of rebellion, were brought against him: he has been kept in detention despite his poor health on the grounds that rebellion is a continuing and non-bailable offence; he has been transferred to the Philippine Heart Centre, where he is in police custody and under surveillance; the other parliamentarians concerned, who were also charged with rebellion, escaped arrest and were granted "protective custody" by the House of Representatives from 27 February to 4 May 2006, when the charge was dismissed;
- However, on 11 May 2006 a new charge was brought against them; ruling on their petition for certiorari, on 5 June 2006 the Supreme Court issued a Status Quo Order commanding and directing the Department of Justice, the State prosecutors and the Police to maintain the status quo and refrain from conducting any further preliminary investigation pending further orders from the Court; on 22 August 2006, the judge in the case consequently suspended proceedings against Mr. Ocampo, Mr. Virador, Mr. Casiño, Ms. Maza and Mr. Mariano; however, this decision does not concern Mr. Beltran owing to an earlier court decision finding probable cause regarding one of the three rebellion charges brought against him; a motion for reconsideration of that decision was rejected on 29 August 2006 on the grounds that rebellion was a continuing and non-bailable offence, and a petition for certiorari and prohibition also seeking his release on bail is pending before the Supreme Court;
- On several occasions, Mr. Ocampo had difficulties travelling abroad, his name having been put on a "watch list" by the Secretary of Justice, most recently on 28 October 2006, when the Secretary of Justice required him to sign an undertaking not to criticize President Arroyo; Mr. Ocampo considered this an infringement of his right to freedom of expression and refused, and it was only the following day, after Mr. Ocampo had secured a written court order allowing him to travel abroad, that he was allowed to leave;
- elections are due to be held in the Philippines on 14 May 2007; the National Security Advisor has reportedly stated publicly that he would do his utmost to secure the disqualification of the political parties to which the parliamentarians concerned belong,

Considering the following new developments:

- On 6 March 2007, a regional trial court found probably cause against Mr. Ocampo and issued an arrest warrant for him on a charge of multiple murder more than 20 years ago in Leyte; on 16 March 2007, Mr. Ocampo was arrested and remained in detention until 3 April 2007, when the Supreme Court, acting on Mr. Ocampo's petition to annul the regional trial court decision, ordered his release on a cash bond of 100,000 pesos, on the ground that the indictment was defective; the case is pending;
 - In February 2007, petitions were filed with the Commission on Elections (Comelec) for cancellation of registration of the political parties to which the parliamentarians concerned belong, namely Bayan Muna, Anakpawis and Gabriela; they are based on complaints by the two widows whose husbands were allegedly killed on their orders, as members of the Communist Party of the Philippines; their case is pending for resolution before Comelec,
1. *Expresses its deep thanks* to the Philippine authorities, and in particular to the parliamentary authorities, for having received and fully cooperated with the Committee's mission;
 2. *Thanks* the delegation for its work, *notes* with interest its preliminary statement, and *looks forward* to receiving its full report;
 3. *Is highly gratified* that, following the IPU delegation's representation, the Government's national security cluster decided not to oppose Mr. Beltran's temporary release pending trial, and *looks forward* to his release very soon;
 4. *Nevertheless remains concerned*, in the light of the delegation's preliminary statement and the evidence already on file, not only at the charges brought against the parliamentarians concerned, for the reasons set out in its previous resolution, but also at the attempts to criminalize their political parties and to obtain their exclusion from the political process on highly spurious and questionable grounds;
 5. *Trusts* that the Supreme Court will rule as quickly as possible on the petitions pending before it regarding the rebellion and murder charges against the parliamentarians concerned; *urges* Comelec to consider the petitions for cancellation of the political parties in question as a matter of urgency and to resolve them in line with human rights and democratic principles;
 6. *Requests* the Secretary General to convey this resolution to the authorities and the parliamentarians concerned;
 7. *Requests* the Committee to continue examining this case and report to it at its next session, to be held on the occasion of the 117th Assembly (October 2007).



INTER-PARLIAMENTARY UNION

CHEMIN DU POMMIER 5
1218 LE GRAND-SACONNEX / GENEVA (SWITZERLAND)

TELEPHONE + 41 22 - 919 41 50 - FAX + 41 22 - 919 41 60 - E-MAIL postbox@mail.ipu.org

PRELIMINARY STATEMENT OF THE DELEGATION OF THE COMMITTEE ON THE HUMAN RIGHTS OF PARLIAMENTARIANS ON ITS ON-SITE MISSION TO THE PHILIPPINES, 18-21 APRIL 2007

The delegation wishes first of all to express its deep gratitude to the authorities of the Philippines with whom it met for their hospitality and cooperation. Its thanks also go to both Houses of Parliament, which ensured the smooth conduct of the mission. Thanks to their efforts, the delegation was able to meet with all the authorities the Committee had requested to see and the parliamentarians concerned themselves, including Mr. Crispin Beltran in the Philippine Heart Center. It wishes to stress that the delegation encountered no obstacles whatsoever to visiting him for the length of the time it considered appropriate.

One of the IPU's main concerns in this case, as it happens, is the continuing detention of Mr. Beltran. The delegation raised this question in particular with the Secretary of Justice and the National Security Advisor. As a result, the national security cluster in the Government decided that it would no longer oppose Mr. Beltran's release pending trial. This decision was publicly announced. However, the Solicitor General still has to manifest this decision formally to the Supreme Court, before which an urgent motion for Mr. Beltran's release is pending. The delegation wishes to thank the National Security Advisor for his efforts to raise the issue within the national security cluster, and trusts that Mr. Beltran will be released pending trial at the earliest possible time.

The second concern which the delegation raised with the authorities related to the charges brought against the parliamentarians concerned. The authorities affirmed that they were being prosecuted on account of their membership of the Communist Party, which advocated violence and aimed at the violent overthrow of the Government, and that they were involved in such criminal activities. It appeared to the delegation that the statements, in particular of the governmental and prosecuting authorities, revealed a presumption of guilt on their part. The delegation was unable to dispel the IPU's concern that the charges, which are broad and unsubstantiated and based on questionable evidence, in addition to the sequence of the various prosecution steps, tend to demonstrate that non-legal motives may underlie the prosecution of the parliamentarians concerned.

This impression is reinforced by various other efforts of the Secretary of Justice to lay charges against the parliamentarians concerned and to obtain their exclusion from the political process:

- a multiple murder charge was brought in March 2007 against Mr. Ocampo and served as the basis for his arrest. The Supreme Court released him on bail although murder is a non-bailable offence, which likewise tends to show that the prosecution presented a weak case;
- a petition for cancellation of registration of the political parties to which the parliamentarians concerned belong was filed before the Commission on Elections (Comelec) in February 2007 and is based on the complaint of two widows whose husbands, they claim, were murdered on the orders of the parliamentarians concerned. The delegation was told that no police investigation was being carried out in this regard, let alone any judgment being rendered. The delegation believes that a petition for cancellation of registration based on a complaint of murder against individuals cannot serve as a ground for disqualifying a political party. Pending the resolution of this case by Comelec, an asterisk attached on the electoral list to the political parties concerned reminds voters that disqualification proceedings are pending. Although the member of Comelec with whom the delegation met stated that the asterisk would be removed from the ballots, the delegation learned that electoral lists with the asterisk had already been distributed to Philippine voters abroad. The delegation finds this procedure questionable since it may seriously prejudice the political parties concerned.
- The delegation notes that the criminal cases against the parliamentarians concerned are pending before the Supreme Court, and it has no doubt whatsoever that the Court will examine these cases in a fully independent manner and as quickly as possible.

The delegation believes this case to be highly significant for the future of democracy in the Philippines and looks forward to its settlement in line with human rights and democratic principles.

Nusa Dua, 3 May 2007

