

OUT OF PRINT

The Decline of
Democracy in the
Philippines

INTERNATIONAL COMMISSION
OF JURISTS
109, route de Chêne
1224 Chêne-Bougeries, Geneva
Switzerland

A Report of Missions by
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Professor John P. Humphrey
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Geneva, Switzerland

August, 1977

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Preface

In September 1972 President Marcos proclaimed Martial Law in the Philippines, declaring that it was necessary in order to meet the threat to national security posed by the Communist Party, the New People's Army, and the secessionist struggle of certain Moslem elements in Mindanao and Sulu.

Since then he has governed by a system of authoritarian personal rule, supported by the armed forces, and reinforced by a new Constitution which he has introduced without the approval of Congress. These actions have been approved in a series of referenda, the validity of which has been seriously challenged.

During this period Parliament and all political activities have been suspended, and severe restrictions have been imposed on virtually all basic human rights and fundamental freedoms, including freedom of speech, expression, association, and assembly, freedom of the press, freedom from arbitrary arrest, from prolonged detention without trial, and from torture and ill-treatment, the right to speedy public trial, the right to strike, and the right of the people to choose their own government.

In response to numerous requests the International Commission of Jurists has sent three missions to the Philippines to study the operation of Martial Law from the point of view both of the legal system and of the allegations which have been made of serious violations of human rights. Under the legal aspect, the constitutional changes and the restrictive legislation under Martial Law have been examined, as well as the operation of the civil and military systems of justice and the effect of various measures taken upon the independence of the judiciary. As the restrictions on basic human rights could be justified under the Philippine Constitution only as a consequence of the Proclamation of Martial Law, it became necessary to consider also the validity of the original Proclamation of Martial Law and its continuance to the present time, from the point of view both of domestic law and of internationally accepted standards.

Of the three missions to the Philippines, the first was undertaken in May 1975 by William J. Butler, Esq., of New York, a member of the International Commission of Jurists and now Chairman of its Executive Committee. He was received by President Marcos, who offered the full cooperation of his government. The members of this and the succeeding missions received every assistance from both the civil and the military authorities and were permitted to visit and speak alone to detainees in prisons and military camps. The International

Commission of Jurists wishes to express its appreciation for this cooperation by the Philippine authorities.

The second mission was undertaken in November 1975 by Mr. G. E. Bisson, Chairman of the New Zealand Section of the International Commission of Jurists. The third mission was undertaken in February 1977 by Mr. Butler together with another member of the International Commission of Jurists, Professor John P. Humphrey of Canada, former Director of the Human Rights Division of the United Nations.

This report is signed by Mr. Butler, Professor Humphrey, and Mr. Bisson, but as Mr. Bisson's mission related only to the issues of the declaration of Martial Law under the Philippine Constitution and the operation of the system of justice, his endorsement of the report is limited to the sections relating to those matters.

The missions to the Philippines and the publication of this report were made possible by a grant from the National Council of the Churches of Christ in the U.S.A. The International Commission of Jurists wishes to express its gratitude to the National Council of Churches and to Peter Mollman and Random House for their technical advice and assistance.

Niall MacDermot
Secretary-General
International Commission of Jurists

Geneva
June 1977

*The Decline of Democracy in
the Philippines*

I. Historical Perspective

The Republic of the Philippines, an archipelago named after Philip II of Spain, consists of approximately 7,100 islands about 500 miles off the southeast coast of Asia. The islands extend north and south for approximately 1,152 miles and east and west for about 688 miles, the furthestmost northern island being about 65 miles southeast of Formosa and the southernmost island being 30 miles east of Borneo.

Today the Republic has a population of 44,000,000. Although the population of the Philippines is composed of a number of cultural and linguistic groups, the ancestors of the present-day population belonged to the Malay race, which is a subdivision of the Great Mongoloid stock of eastern Asia.

Today, the bulk of the people speak English or Tagalog, which has become the national language and is taught in the schools and which has been increasingly used by more of the population.

The Philippines under Spain (1600–1898)

The islands first become known to Europeans through Ferdinand Magellan, who arrived on March 16, 1521. After several Spanish expeditions, by 1600 several of the main islands—except the Moro islands of Mindanao, the Sulu Archipelago, and Palawan—were brought under Spanish control.

Manila was established in June 1572 by the Spaniard Miguel López de Legazpi. Ironically, with repercussions to the present day, the principal opposition came from Moslems who had settled and were strongly entrenched in Mindanao. The Spaniards were instinctive enemies of the Moslems and it was they who gave them the name Moro, by which they are still known.

For over two hundred and fifty years the Moros ravaged the coasts, often joining the Dutch and the Portuguese against the Spaniards. Finally, about 1850, the Moros were subdued by a Spanish military force. Thus ended the real power of the Moros. But even today one of the principal centers of opposition to the Marcos Government comes from the Moslems of Mindanao. Their threat of secession, their demands for local autonomy, and their almost fanatical attempt to preserve their own culture (with the aid of arms supplied by Colonel Qaddafi of Libya) pose a constant threat to the stability of the Marcos regime.

Although several military expeditions reached Manila—initially the Portuguese, followed by the Dutch and the British—the Philippines remained

under the control of Spain until it ceded the islands to the United States, along with Puerto Rico and Guam, by the Treaty of Paris on December 10, 1898.

Philippine Nationalism

The first Philippine patriot is generally considered to have been José Rizal y Mercado.

With the opening of the Suez Canal in 1869 many Philippine youths traveled to Spain for study. Student groups formed in Spanish cities and began agitating for reforms by pressuring the representatives of the Spanish Cortes. In 1888 a newspaper was founded in Barcelona known as *La Solidaridad*. One of its main contributors was José Rizal, who urged reforms in both religion and government.

Unrest on the archipelago had been building up, especially since 1872, when 200 native soldiers at the Cavite arsenal revolted, killed their officers, and shouted for independence. Plans for a similar demonstration in Manila failed, but this affair led to mass arrests, executions, and sentences of life imprisonment for many, including three Philippine priests.

After 1872 the Philippine independence movement began to grow. First it complained about the domination of the friars and their administrative and economic controls.

Rizal was in the forefront. In 1891 he founded in Hong Kong an organization called the "Liga Filipina." About the same time this was founded, the "Supreme Worshipful Association of the Sons of the People," which eventually was called "Katipunan," was founded. It was said to have between 100,000 and 400,000 members dedicated to the principle of Philippine independence.

Five years later, in 1896, Rizal was arrested in Barcelona, extradited to the Philippines, given a farcical trial, and executed on December 30, 1896.

On August 26, 1896, actual insurrection broke out, this time under the leadership of the great Philippine patriot Emilio Aguinaldo. Spain sent in troops, and after a campaign of fifty-two days the insurgents were defeated. Aguinaldo left the Philippines for Hong Kong on December 27, 1897, after concluding the pact of Biac-na-Bató.

The United States became involved initially when the U.S. battleship *Maine* was blown up in the harbor of Havana, Cuba, on February 15, 1898. Among other Spanish colonial possessions were the Philippines and Guam.

Regardless of the United States involvement, Aguinaldo returned to Manila on May 19, 1898, and announced the struggle for Philippine independence. A provisional government was proclaimed with Aguinaldo as President. On September 9, 1898, they moved their capital to Malolos, with Apolinario Mabini, the "mouthpiece of the revolution," as Aguinaldo's chief adviser. A revolutionary Assembly met on September 15 and September 29 and ratified Philippine independence. In November and December 1898 revolutionary

tribunals were organized in the Visayas, but on December 10, 1898, Spain ceded the Philippines along with the Pacific island of Guam to the United States.

The Philippines under the United States (1898-1946)

Philippine independence survived for a few months during 1899. Ignoring Spain's right to cede the islands to the United States, Aguinaldo proceeded to submit to the revolutionary Assembly the Malolos Constitution, which it proclaimed and ratified on January 23, 1899. Aguinaldo, who was President of the provisional government, was elected President.

Direct confrontation between the Philippines and the United States soon broke out in Manila on February 4, 1899. The insurgents were defeated at all points, and on February 5, 1899, Aguinaldo declared war on the United States. On February 6, 1899, the Senate ratified the treaty with Spain and the United States immediately sent troops to the islands.

On March 31, 1899, Malolos was captured by U.S. forces and Aguinaldo and his government fled to northern Luzon to conduct guerrilla-type warfare. He fought long and hard for almost two years, but in the end was captured by U.S. forces under General Frederick Funston in March 1901. It should be pointed out that the U.S. Army was assisted to a marked degree by the "Makabebe Scouts," who remained loyal to the United States. The heroic attempt at independence by native Filipinos virtually ended on April 16, 1902, with the surrender of General Miguel Malvar in Samar.

For the next thirty-one years, until 1933, when a bill for Philippine independence passed both houses of the United States Congress, the Philippines were governed by governor generals appointed by the President of the United States.

During this period, important economic and cultural steps were taken. In 1903 President Taft initiated negotiations with Pope Leo XIII for the purchase of friar lands, which the Philippine Government purchased for \$7,250,000. These lands were later sold to many Philippine people. The Pope also replaced the Spanish prelates with U.S. archbishops and bishops. Spanish and English were the official languages until 1913, when Spanish was dropped, later to be replaced with Tagalog in 1940. Public school systems were initiated and many American economic and social institutions were grafted on the Philippine society, such as the granting of important trade concessions.

Locally, the country was governed by the Philippine legislature, which opened in Manila on October 16, 1907.

President Hoover vetoed the first bill passed by both houses granting independence, but in January 1933 the Congress of the United States overrode his veto. Nevertheless, the bill failed because of the refusal of the Philippine legislature to ratify it. This is said to have happened largely because Manuel

Quezon wanted to divert the credit from those who had engineered its passage in Washington during his absence.

The election of Roosevelt in 1933 brought Quezon to Washington to win President Roosevelt's approval of a new bill for independence, which passed both houses and was signed by the President on March 24, 1934. It established the Philippine Commonwealth and provided for independence in 1946. The act abolished the office of governor general and replaced remaining U.S. authority with a high commissioner. Manuel Quezon was elected first President of the Commonwealth for six years, with the understanding—not legally binding—that he would yield the office to the Vice-President, Sergio Osmeña, after two years.

The Japanese invaded the Philippines on December 8, 1941. Quezon, Osmeña, and the Commonwealth Cabinet left for Washington to form a government in exile. Quezon died in 1944 and Osmeña became President and returned to the islands with the American forces in 1944.

In the general elections of 1946, Osmeña was defeated by Manuel Roxas y Acuña, who served as the last President of the Commonwealth and within a few months became the first President of the Republic of the Philippines.

When the country became independent in 1946 there was no real substantial change in the Constitution of 1935, as amended in 1940 and 1941. The executive term was then four years, with 24 members of the Senate elected for six-year terms and 102 Congressmen from 53 provinces elected for four-year terms.

The judicial powers lay ultimately in a Supreme Court whose members were appointed for life by the President of the Republic.

II. The Constitution of 1935

The Constitution of 1935 remained in force for thirty-seven years. Patterned on the American model, it created a tripartite presidential form of government for a unitary state. Article IV constituted a Bill of Rights. The President was fully accountable to the bicameral Congress, and the judiciary exercised the power of review over executive and legislative functions. The Constitution could be amended by Congress in joint session upon a vote of three-quarters of the Senate and the House voting separately, ratified by a majority of votes cast in a referendum. The President possessed the power to suspend the writ of habeas corpus or place the Philippines or any part of it under Martial Law

in case of invasion, insurrection, or rebellion or imminent danger thereof, when the public safety requires it.

It was under these provisions that Ferdinand Marcos was elected President of the Philippines in 1965 and again in 1969. Under Section 5 of the 1935 Constitution, by which "no person shall serve as President for more than eight consecutive years," his term of office would have expired on December 30, 1973.

III. Events Leading to the Declaration of Martial Law

The decade of the 1960's saw serious challenge to the authority of the Philippine Government, not only from the newly reorganized Communist Party of the Philippines with its militant arm, the New People's Army (NPA), but also the Moslem secessionist movement in Mindanao-Sulu. President Marcos reported that he had committed almost 50% of the entire armed forces of the Philippines and created several Task Forces to cope with these challenges. However, this measure proved insufficiently effective in suppressing the violence. (In 1969, according to the President, the NPA had "conducted raids, resorted to kidnappings and taken part in other violent incidents numbering over 230, in which it inflicted 404 casualties . . .")

Suspension of the Writ of Habeas Corpus on August 21, 1971

On the evening of August 21, 1971, a large rally gathered in the Plaza Miranda to hear the speeches of the eight official senatorial candidates of the opposition Liberal Party for the forthcoming mid-term elections. All the major leaders of the party with the exception of Senator Aquino were on the platform when two fragmentation grenades exploded among them. Within hours of the incident, President Marcos announced the suspension of the writ of habeas corpus, and the National Bureau of Investigation rounded up scores of suspects. However, no one has yet been charged with the responsibility for the deaths and injuries at the Plaza Miranda in August 1971.

The suspension of the writ of habeas corpus was originally contained in Proclamation No. 889 of August 21, 1971, but was amended nine days later in Proclamation No. 889-A, to bring it properly into line with Section 1 of the Bill of Rights as well as Section 10 of Article VII of the Constitution. The ground for the Proclamation was the existence of a state of rebellion.

Between September 18 and October 4, 1971, the Proclamation was amended three more times to effect the lifting of the suspension of the writ in all but eighteen provinces, two sub-provinces, and twenty-six cities of the Philippines.

Lansang v. Garcia—the Supreme Court of the Philippines Approves the Suspension of the Writ of Habeas Corpus

In October 1971 several of those detained at the time of the Plaza Miranda incident petitioned the Supreme Court for restitution of their rights of habeas corpus. As this case paved the way for the later Declaration of Martial Law, the reasoning of the Court in arriving at its decision to support the suspension of habeas corpus must be examined.

The first question confronting the Court was whether it had the capacity to inquire whether the conditions stipulated in the Constitution for the presidential prerogative of suspension of the writ did in fact obtain in this instance. A majority of the Court, as reported by Chief Justice Concepción, agreed that it could inquire to satisfy itself of the existence of factual bases for the issuance of the Proclamation “and thus determine the constitutional sufficiency of such bases.” But the Court was not agreed on the “precise scope and nature of this inquiry.”

Having asserted its capacity to inquire into the factual bases for the suspension of the writ, the next question before the Court was to establish whether in fact a rebellion existed in the Philippines. In his report of the majority position of the Court, Chief Justice Concepción traced the political history of the nation in the postwar period and the evidence of Communist activity up to the Plaza Miranda bombing.

His report made the following points:

1. that “all Communists, whether they belong to the traditional group or to the Maoist faction, believe that force and violence are indispensable to the attainment of their main and ultimate objective . . .”

2. that the evidence of the existence of the New People’s Army (NPA) “is *per se* proof of the *existence* of a rebellion, especially considering that its establishment was *announced publicly* by the reorganized CPP. Such announcement is in the nature of a public challenge to the duly constituted authorities and may be likened to a declaration of war, sufficient to establish a war status or a condition of belligerency, even before the actual commencement of hostilities.”

3. to the argument that the NPA is really too small to constitute a threat to public safety, Chief Justice Concepción replied:

This argument does not negate, however, the existence of a rebellion, which, from the constitutional and statutory viewpoint, need not be widespread or attain the magnitude of a civil war.

In fact,

the existence of a rebellion is obvious, so much so that counsel for several petitioners herein have admitted to it.

This issue of the magnitude of the challenge to public safety was dismissed on the principle that

the function of the Court is merely to *check*—not to *supplant* the Executive, or to *ascertain merely whether he has gone beyond* the constitutional limits of his jurisdiction, not to exercise the power vested in him or to determine the wisdom of his act.

That is, it is not for the Court to decide the correctness or wisdom of the act of the President in suspending the writ, but simply to ascertain whether it was an arbitrary act without any factual basis to justify it and thereby unconstitutional. The Court cited the progressive lifting of the suspension over most of the Philippines in the months of September and October and declared itself

not prepared to hold that the Executive had acted arbitrarily or gravely abused his discretion when he then concluded that public safety and national security required the suspension of the privilege of the writ . . .

Although the suspension of the writ of habeas corpus was rescinded on January 11, 1972, *Lansang v. Garcia* (decided by the Supreme Court in October 1971) provided, in the opinion of many legal observers, the guiding principles which the Supreme Court of the Philippines would later apply in determining the constitutionality and legality of the Declaration of Martial Law. It should be borne in mind that the constitutional provision granting this power to the Executive to suspend the writ is the same as the one granting the President the power to declare Martial Law.

The significance of the *Lansang* case is that it limited judicial inquiry into the arbitrariness of the Executive act, or, in legal terms, into whether or not it constituted “gravely abused” discretion on the part of the Executive.

In every case where the issue of the constitutionality of Martial Law arose subsequent to its declaration, the Court, applying its lenient test of arbitrariness and refusing to examine in detail the justification for the continued Proclamation, concluded that the act of the Executive was constitutional and thereby effectively removed from judicial review the justification for the Proclamation or its continuance. It followed from this that the legality of all arrests made pursuant to Martial Law decrees was upheld.

Declaration of Martial Law on September 21, 1972

In the months between January and September several factors led to the President’s decision to declare Martial Law on September 21, 1972.

In the Preamble to Proclamation 1081 of September 21, 1972, the President stated that:

1. in the months of May, June, and July foreign-manufactured war materials were brought into the Philippines at Digoyo Point, Palanan, Isabela, and other points along the Pacific coastline of Luzon;

2. on June 18 the 116th and 119th Philippine Constabulary Companies captured a copy of the "Regional Program of Action 1972" purportedly issued by the Central Committee of the Communist Party of the Philippines, which incited acts of rebellion and violence against the Marcos government which were held to be directly related to a score of bomb explosions over this period; and

3. the Mindanao Independence Movement had intensified its secessionist fight with the "active material and financial assistance of foreign political and economic interests."

In support of these assertions the President estimated that the Kabataang Makabayan (Youth Association) had increased its membership by 50% to 15,000 in the period 1970-72; the Samahang Demokratiko ng Kabataan (Left Cadre Organization) had increased its membership to "some 1,495 highly indoctrinated, intensely committed and almost fanatically devoted individuals"; and the New People's Army had increased its regular troops over 100% in the six months to a total of 1,028 regulars. He referred to the establishment of insurgent sanctuaries in several parts of the Philippines, the formation of grass-roots "political power organs" in the *barrios* (community clusters), and the "infiltration and control of the media by persons who are sympathetic to the insurgents and the consequent intensification of their propaganda assault against the Government and the military establishment of the Government."

In consideration of these factors and the fact that the Supreme Court had upheld the earlier presidential contention that a rebellion existed in the terms of the 1935 Constitution by sustaining the suspension of the writ of habeas corpus in October 1971, President Marcos declared Martial Law throughout the Philippines on September 21, 1972.

Judicial Approval of Martial Law

Several challenges to the legality of Martial Law have been made by those arrested under Martial Law decrees, the most important being the case of *Aquino et al. v. Enrile et al.*, decided on September 17, 1974.

Chief Justice Makalintal stated the Court's view as follows:

In the first place I am convinced (as are the other Justices), without need of receiving evidence as in an ordinary adversary court proceeding, that a state of rebellion existed in the country when Proclamation No. 1081 was issued. It was a matter of contemporary history within the cognizance not only of the courts but of all observant people residing here at the time. Many of the facts and events recited in detail in the different "Whereases" of the proclamation are of common knowledge. The state of rebellion continues up to the present. The argument that while armed hostilities go on in several provinces in Mindanao there are none in

other regions except in isolated pockets of Luzon, and that therefore there is no need to maintain martial law all over the country, ignores the sophisticated nature and ramifications of rebellion in a modern setting. It does not consist simply of armed clashes between organized and identifiable groups on fields of their own choosing. It includes subversion of the most subtle kind, necessarily clandestine and operating precisely where there is no actual fighting. Underground propaganda through printed news sheets or rumors disseminated in whispers, recruitment of armed and ideological adherents, raising of funds, procurement of arms and material, fifth-column activities including sabotage and intelligence—all these are part of the rebellion which by their nature are usually conducted far from the battle fronts. They cannot be counteracted effectively unless recognized and dealt with in that context.

A detailed review of the legal steps taken under Martial Law may be found in "Administration of Justice under Martial Law," by former Chief Justice Roberto Concepción, in Appendix A.

IV. The Perpetuation of Martial Law

Martial Law in the Philippines is now in its fifth year. The Executive rules by decree. There is no legislature, no elections, and very little judicial review. The people are not allowed to choose their representatives. Citizens languish in jails without charge, many since Martial Law was declared. Military authority is supreme.

As such far-reaching and prolonged suspension of basic rules and political rights is justifiable in accordance with internationally accepted norms only where there is a genuine emergency "threatening the life of the nation," it becomes necessary to consider the justification for the continuance of Martial Law in 1977 and, as a corollary, the question whether the Philippine authorities have continued the state of emergency in order to perpetuate personal or military power, as has frequently been alleged.

The principles which should be applied in assessing the present situation will first be examined briefly.

Guiding Principles

The guiding principle in international law is found in Article 4 of the International Covenant on Civil and Political Rights, which entered into force on March 23, 1976, and which reads as follows:

In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation.

Although the Philippines has not ratified this covenant, it is submitted that the principle contained in this article is of universal validity, and serves to spell out more fully Article 29 (2) of the Universal Declaration of Human Rights, which states:

In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

The African Conference on the Rule of Law held in Lagos, Nigeria, in 1961 under the auspices of the International Commission of Jurists went further in formulating the minimum safeguards which every state should apply in those cases where a Declaration of Martial Law or other state of emergency is justified.

5. The proclamation of a state of emergency is a matter of most serious concern as it directly affects and may infringe upon human rights. It is the sense of the Conference that the dangers of survival of the nation such as arise from a sudden military challenge may call for urgent and drastic measures by the Executive which by the nature of things are susceptible only of an *a posteriori* legislative ratification and judicial review. In any other case, however, it is the Parliament duly convened for the purpose that should declare whether or not the state of emergency exists. Wherever it is impossible or inexpedient to summon Parliament for this purpose, for example during Parliamentary recess, the Executive should be competent to declare a state of emergency, but in such a case, Parliament should meet as soon as possible thereafter.

6. This Conference is of the opinion that real danger exists when, to quote the words of the Général Rapporteur, "The citizenry, whether by legislative or executive action, or abuse of the judicial process, are made to live as if in a perpetual state of emergency."

7. The Conference feels that in all cases of the exercise of emergency powers any person who is aggrieved by the violation of his right should have access to the courts for determination whether the power has been lawfully exercised.

At its Commission Meeting in Vienna in April 1977, the International Commission of Jurists spelled out in more detail the necessary safeguards under Martial Law:

Where a state of siege or martial law is declared to deal with an exceptional situation the following basic safeguards should be strictly observed:

1. Arrests and detentions, particularly administrative detentions, must be subject to judicial control, and remedies such as *habeas corpus* or *amparo* must always be available to test the legality of any arrest or detention. The right of every detainee to legal assistance by a lawyer of his choice must at all times be recognized. The holding of suspects in solitary confinement should be strictly limited in accordance with law.

2. Effective steps must be taken to prevent torture and ill-treatment of detainees. When it occurs, those responsible must be brought to justice. All detention centers, prisons and camps for internment of detainees must be subject to judicial

control. Delegates of accredited international organizations should have permission to visit them.

3. Illegal or unofficial forms of repression practiced by paramilitary or parapolice groups must be ended and their members brought to justice.

4. The jurisdiction of military tribunals should be strictly limited to offenses by the armed forces. Civilians should not be tried in military tribunals.

5. The independence of the judiciary and of the legal profession should be fully respected. The right and duty of lawyers to act in the defense of political prisoners, as of other prisoners, and their immunity by action taken within the law in defense of their clients should be fully recognized and respected.

Compliance by the Philippine Authorities with International Standards

It must be remembered that the Declaration of Martial Law in September 1972 came at a time when there was a hiatus in legislative activity. The 1935 Constitution was still in effect. A Constitutional Convention preparing a new Constitution was nearing the end of its deliberations, but in the meantime the Congress was in recess.

By achieving the ratification of the new Constitution in January 1973 (by procedures which will be examined later) President Marcos was able to suspend the legislature indefinitely, since the calling of the new National Assembly pursuant to the 1973 Constitution was wholly within his discretion under the Transitory Provisions. These provisions also allowed him to rule by decree indefinitely.

Consequently, for five years the President has been able effectively to suspend Parliament and legislate by decree, uninhibited by the Supreme Court, which declines to exercise judicial control either because it does not consider his actions manifestly arbitrary or because it considers the questions presented to be outside its jurisdiction.

When this issue was raised before the Supreme Court, the Government claimed that the question of the validity of the Declaration of Martial Law and the question of whether or not Martial Law should continue were "political questions," which could not be entertained by the Supreme Court of the Philippines. The defense, on the other hand, claimed that where there were no facts supporting the continuance of Martial Law—i.e., no facts showing that there was a threat to the nation or that there was a public emergency or a substantial threat to the security of the state, etc.—in that event, the question eventually becomes a judicial one allowing the Court to inquire into the constitutionality of the continuance of Martial Law.

In a series of ambiguous decisions, the Court held that, although the question was justiciable, the extent of the inquiry by the Court should be limited to the question of "arbitrariness" and in each instance held that the Executive had not acted in an arbitrary way, thereby sustaining Martial Law with all its consequences. In many of these cases, even dissenting judges held that the

detailed grounds for continuing the state of Martial Law was essentially a political question and not subject to judicial inquiry.

It is not for international observers to challenge the decisions of the Philippine Supreme Court. Accordingly, however much the limitation of the scope of judicial inquiry may be regretted, it must be accepted that the validity of the Proclamation of Martial Law and its continuance has been successfully established under Philippine law. This, however, does not determine the matter under international law or when viewed in the light of internationally accepted standards and norms. In determining whether there is an "emergency which threatens the life of the nation" and whether the measures taken to restrict human rights are "to the extent strictly required by the exigencies of the situation," it becomes necessary to form an independent judgment as to the nature of the emergency and the extent of the threat which it poses.

While we have been unable to examine in any detail the circumstances existing at the time of the original Proclamation of Martial Law in September 1972, we accept that the circumstances existed which were referred to in the Preamble to the Proclamation and which were found by the Supreme Court to be a matter of common knowledge. We accept also that the circumstances justified the imposition of Martial Law at that time.

We are, however, unable to accept that such circumstances still exist today, so as to justify the continuance of Martial Law throughout the whole country, still less to justify the measures taken within it, including the suspension of Parliament and all political activity, severe restrictions on all basic civil liberties, prolonged detention without trial of political opponents, and the substitution of military tribunals for the normal civilian process.

We arrive at this conclusion mainly for the following reasons:

1. The flow of foreign-manufactured war materials into the Philippines appears to have ceased. Over 600,000 weapons have been seized by the authorities since Martial Law.
2. Although President Marcos frequently refers in general terms to the Communist threat, it is believed that there is no longer a serious threat of an armed overthrow of the Government by the Communist Party, still less that the suppression of civil and political liberties is necessary in order to combat it. The breakdown of law and order from the throwing of bombs in public places and other acts of terrorism has ceased.
3. The New People's Army is no longer an effective force threatening the life of the nation. Most of the leadership has surrendered or been arrested. The highest estimate of the membership is 20,000, but this is a nominal figure, as the armed force is not numbered above 1,000 and this force is largely contained within the mountains and is not able to operate effectively in the populated areas.
4. The various "private armies" of the old-time politicians and oligarchs have been virtually eliminated.
5. There have been no serious incidents of armed rebellion except in

Mindanao, where the Moro National Liberation Front continues to negotiate for its rights and where approximately 6,000 rebels are adequately contained by the Philippine Army.

Therefore, except for the possible continuance of Martial Law in Mindanao, where there is evidence of a threat to the security of the nation, it is our opinion that a continuation of Martial Law is no longer necessary, and we are driven to the conclusion that the contention of the President's opponents is well founded that Martial Law is being maintained in order to ensure the continuation and perpetuation of his personal power.

To this charge the President points to the fact that on four occasions the people, by way of referenda, have ratified and approved his actions. It is necessary, therefore, to consider whether or not these plebiscites can be relied upon to reflect the will of the people.

V. The Use of Referenda to Legitimize and Perpetuate Government by Presidential Decree

Since Martial Law was declared in September 1972, the President of the Philippines, on no less than four occasions, has submitted important political decisions to the Philippine people by way of referenda. Since there has been no Parliament during this period, the President has relied solely upon the results of these referenda to legitimize the acts of the government taken during this time.

The first of these referenda, in January 1973, resulted in the ratification of the new Constitution, and the last one, in October 1976, resulted in a constitutional amendment authorizing the President to rule by decree.

These referenda were all held while Martial Law was in effect (although at one point there was a temporary lifting of restrictions on debate) and at times when Opposition leaders were either under arrest or imprisonment or in fear of being prosecuted by the Government. They were all carried out at a time when all legitimate opposition to the Government by way of the press, radio, and television was totally silenced, and when the votes are alleged to have been influenced by the presence of military personnel at the polling booths. Furthermore, the accuracy of the results of these referenda has been seriously questioned. For instance, the ratification of the new Constitution in 1973 was declared by the President within forty-eight hours of the taking of the referendum. In the opinion of the most conservative observers, such a quick tally would be a physical impossibility in this large archipelago, especially as the

votes are counted manually. Two weeks is the normal period for counting election results.

The Referendum of January 1973 and the Ratification of the 1973 Constitution

It must be remembered that, although Martial Law was declared pursuant to the applicable provisions of the 1935 Constitution, a Constitutional Convention had been convened in the Philippines from June to December 1972. This convention was seriously deadlocked over such substantial issues as the powers of the Executive during the transitory period, the provisions relating to the terms of office of the President and his or her successor, and, also, the wisdom or advisability of changing the structure of the Philippine Government from a presidential to a parliamentary form.

Perhaps the most contentious section was Article XVII, the Transitory Provisions, which essentially provided:

A. That the Interim President be empowered to convene, *at his discretion*, an Interim National Assembly.

B. That during the Interim Period all proclamations, orders, and decrees of the Executive shall be part of the law of the land and shall remain binding even after the lifting of Martial Law, unless revoked by subsequent orders and decrees of the President.

It should also be borne in mind that after the Declaration of Martial Law the Government arrested and detained some of the important members of the Opposition, closed the newspapers, terminated public debate, and, in essence, turned the administration of the Philippine Government over to the military forces. It was in this climate that President Marcos attempted to resolve the problem of the deadlocked convention and to bring about a ratification of the 1973 Constitution.

Suffice it to say that little more than two months after the Declaration of Martial Law, the Constitutional Convention approved a proposed Constitution on November 29, 1972, with the now famous Transitory Provisions intact. However, it was generally thought that the ratification of this proposed Constitution would be by means of a plebiscite to be called by the Congress (elected pursuant to the 1935 Constitution), which at this point was in recess.

Nothing could have been further from the President's mind. On the very next day, November 30, 1972, President Marcos issued Decree No. 73, declaring that the proposed Constitution would be submitted to the people in a plebiscite to be held on January 15, 1973.

One week later, Planas and other petitioners filed a complaint in the Supreme Court against the Commission on Elections, contending that the power to call such a plebiscite, pursuant to the 1935 Constitution, rested with Congress alone.

Directly threatened by this lawsuit, the President embarked on a course to

“short-circuit” the Supreme Court. Briefly, we will attempt to describe some of his actions:

1. On December 17, 1972, he temporarily suspended Martial Law for the purpose of free and open debate of the proposed Constitution.

2. On December 23, 1973, he announced a postponement of the plebiscite (which, in fact, never took place).

3. On December 31, he announced by Presidential Decree No. 86, which was designed “to broaden the base of citizen participation in the democratic process and to afford ample opportunities for the citizenry to express their views on important national issues,” the creation of a Citizen’s Assembly or *Barangay*. The Citizens Assembly consisted of all residents of the *barrio* who were members of the former Barrio Assembly. Significantly, the franchise in the Citizens Assembly was extended to fifteen-year-olds, whereas the Barrio Assembly had been restricted to those over eighteen years of age. The Citizens Assemblies shall be convened “to consider matters of local or national concern.”

These assemblies are, in fact, public meetings at which decisions are taken by a show of hands. In the Martial Law conditions prevailing they can hardly be considered a reliable barometer of public opinion.

4. President Marcos sought to strengthen the confirmatory function of the new Citizens Assemblies with his Presidential Decree No. 86A of January 5, 1973, in which he decreed that these *Barangays* created six days earlier “shall constitute the basis for citizen participation in governmental affairs and their collective views shall be considered in the formulation of national policies or programs.” Specifically, these assemblies shall consider the “vital national issues now confronting the country”—the holding of the plebiscite on the new Constitution, the continuation of martial rule, and the convening of Congress.

In the meantime, the Supreme Court, believing that the plebiscite had merely been postponed, refrained from deciding the cases. This decision was based on the expectation that the Congress, under the 1935 Constitution, would reconvene as scheduled, on January 23, 1973, and on the fact that Congress “unquestionably” had the authority to call a plebiscite and appropriate the necessary funds.

However, the presidential actions creating the Citizens Assemblies and the announcement of a plebiscite “to consider matters of local or national concern” prompted the petitioners to file an urgent motion seeking expedition of the cases “as soon as possible but not later than January 15, 1973.” The petitioners charged that there was an “attempt to bypass and short-circuit” the Supreme Court by the President.

This Supplemental Urgent Motion was filed on January 15, the Government answered on January 16, and the argument was set for January 17, 1973.

During the course of the oral argument on January 17, the Chief Justice, Roberto Concepción, excused himself and left the room. One of the leading

attorneys told us that he thought that the jurist had merely left for personal reasons. In reality, he had been asked to leave the courtroom by the Secretary of Justice, Abad Santos, who carried an urgent message from President Marcos. He was handed Presidential Proclamation 1102, "Announcing the Ratification by the Filipino People of the Constitution proposed by the 1971 Constitutional Convention." Under the Transitory Provisions, this proclamation had the force of law.

The Chief Justice returned to the Court and to a stunned group of attorneys announced that the "*fait accompli*" feared by the petitioners had been fulfilled.

The leading attorney for the petitioners listened in amazement and wept.

On the same day, January 17, 1973, that he promulgated Proclamation No. 1102, announcing the ratification of the new Constitution, President Marcos suspended indefinitely the calling of the Interim National Assembly with his Proclamation No. 1103 and declared the continuation of Martial Law in Proclamation No. 1104. All of these acts were premised on the reported results of the Citizens Assemblies convened two weeks prior to the date of the promised plebiscite.

Other cases were filed in January and February—in particular, one by Josue Javallana on January 20, seeking to restrain Government officials from carrying out or implementing the new Constitution on the ground that the new Constitution was not validly ratified pursuant to the terms of the 1935 Constitution.

At the hearing of these cases, the Government, represented by the Solicitor General, argued that:

1. the Court was without jurisdiction because the questions raised were "political" and therefore "nonjusticiable";
2. there was substantial compliance with Article XV of the 1935 Constitution in the ratification procedures set in motion by the President;
3. the 1973 Constitution was properly submitted to the people in a free, honest, and orderly election, hence Proclamation 1102 certifying the results of the election was conclusive and binding on the Court; and
4. the amending process outlined in Article XV of the 1935 Constitution is not exclusive of other modes of amendment.

The Justices of the Supreme Court found extraordinary little common ground in their judicial response to the questions before them. Hence they each prepared separate opinions which were assayed for the Court's opinion.

The Court considered two major issues: (a) whether or not the 1973 Constitution was validly ratified; and (b) whether or not the 1973 Constitution was in force.

The Court failed to reach a majority vote on the question of ratification. Four Justices voted that it was validly ratified. Two Justices voted that it was not. Three Justices considered that they lacked competence to rule on the question.

On the question whether the Constitution was in force, the Justices voted as follows:

1. Four Justices voted that the people had accepted the new Constitution by the plebiscite.
 2. Four Justices stated that they could not state with judicial certainty whether or not the people had accepted the Constitution.
 3. Two Justices, Concepción and Zaldivar, voted that the new Constitution was not validly ratified and therefore not in force.
- In its final holding, the Supreme Court concluded with these key words:

with the result that there are not enough votes to declare that the new Constitution is not in force . . . [Thus] there is no further judicial obstacle to the new Constitution being considered in force and effect.

By this equivocal process, the 1973 Constitution of the Philippines has been held to be ratified. Not unnaturally, there continues to be substantial political debate as to whether the 1973 Constitution is validly in effect. It is now over four years since the Javallana decision and the Executive has still not called into being the Legislative Assembly provided for in the 1973 Constitution. In fact, by another referendum of October 16, 1976, the President has amended the Constitution so as to eliminate the very National Assembly contemplated by the 1973 Constitution and, as will be seen later, replaced it with an Advisory Council and, at the same time, reserved to himself the right to rule indefinitely by decree.

The Referenda of July 1973 and February 1975

Following a referendum held on July 27–28, 1973, President Marcos reported that 90.61% of the voters agreed to his continued tenure of the presidency even after the mandatory expiration of his term, under the 1935 Constitution, on December 30, 1973, and had voted for the continuation of Martial Law. This vote was declared to be reaffirmed by 87.52% of the voters in the February 27–28, 1975, referendum.

Senator Aquino and several other prominent Filipinos immediately petitioned the Supreme Court, challenging the lawmaking powers of President Marcos on the grounds that since December 30, 1973, he had ceased to be the lawful President of the Philippines. The consensus of the Court—i.e., the summary by Chief Justice Makalintal of the individual opinions of the Justices—unequivocally affirmed the Transitory Provisions of the 1973 Constitution, even though they combined in the President all the powers of the executive and legislative branches of government. There was some doubt whether referenda held under Martial Law could be more than consultative, but the Justices held that they were important devices for assessing public reaction to presidential actions.

The Referendum of October 16, 1976

President Marcos' failure to convene the Interim National Assembly meant that the National Assembly too had been in abeyance for the thirty months since the ratification of the 1973 Constitution when on August 14, 1976, the President announced that an election would be held before January 1977 (1) to elect delegates to a body that would amend the Constitution in lieu of the National Assembly, and (2) to ratify several far-reaching amendments to the 1973 Constitution.

These amendments would create a 120-member *Batasang Pambansa*, a People's Assembly, consisting of elected regional members on a proportional basis, together with members of the present Cabinet; this *Batasang Pambansa* would have the same power as the Interim National Assembly that had been proposed to replace the Congress of the 1935 Constitution. The power to ratify treaties by a simple majority was withdrawn from both the new and the old interim legislatures. The President would have the power to determine when the *Batasang Pambansa* would be convened. The offices of President, Prime Minister, and Speaker were to be united in the person of the incumbent President, who would also have complete discretion over what should be the grounds for disqualification of the Cabinet members and, indeed, of himself as Prime Minister. The President-Prime Minister-Speaker sought the power to legislate by decree even after the lifting of Martial Law. Finally, the amendments provided that the composition of the *Barangays* could be altered at any time and referenda could be called at any time on important issues.

There was widespread skepticism about the possibility of free debate necessary to a truly free referendum and about the constitutionality of the ratification of amendments to the Constitution by any body other than the ill-fated National Assembly.

Thus, on September 11, fourteen bishops made "A Declaration for Human Dignity at the Polls," which reaffirmed the statement made by the bishops of the Philippines prior to the February 1975 referendum, because

the only too palpable fact is that martial law is a regime of coercion and fear, of institutionalized deception and manipulation; and our people do not enjoy the ordinary human and civil liberties that are basic to the proper exercise of their rights of suffrage and to their free participation in government.

We believe any referendum held under these oppressive circumstances cannot but be a vicious farce. A most unconscionable mockery too of our people's dignity.

This we cannot in conscience be party to. We will not participate in an act that further degrades and debases us and our people.

Under the signature of its President, Julio R. Cardinal Rosales, who has been termed a pro-Marcos conservative, the Administrative Council of the Catholic Bishops' Conference issued a "Statement on the Referendum-Plebiscite,"

which suggested that circumstances had changed since the last referendum, and said somewhat ambiguously:

We would like to tell our people that it is basically a moral duty (a) to vote in obedience to a legitimately established law of the land; and (b) to vote in accordance with a well-informed conscience, after a serious reflection on the issues involved.

We hope and pray that we shall all perform our duty courageously.

In response to this, twelve bishops issued a statement on October 7, denying that the situation obtaining in this referendum was any freer than that obtaining in February 1975 and hence defended the bishops' position on the right of conscientious abstention.

The next day, over 170 prominent Filipinos, including former Chief Justice Concepción, Justices Reyes and Zaldivar, Senators Roxas and Salonga, and the former President of the University of the Philippines, Professor Lopez, issued a "Citizen's Manifesto," which expressed deep reservations about the constitutionality of the forthcoming referendum because "the proposed amendments will perpetuate a one-man rule."

On October 3, there had been a demonstration after Senator Salonga had addressed a rally of 3,000 people. On October 10, what was reported to be the first violent demonstration since the imposition of Martial Law in September 1972 occurred during a march on the presidential palace, with thirty-four injured and two fatalities. A week later four election officials and two soldiers were killed when an armored vehicle carrying ballot papers was blown up.

In *Sanidad v. Commission on Elections* on October 12, 1976, a majority of the Supreme Court upheld the constitutionality of the referendum as a mechanism for amending the Constitution.

The Interim National Assembly Association issued a statement on the eve of the election affirming the unconstitutionality of the amendment-ratification procedures proposed by the President and concluded:

In sum, because the proposed amendments are unconstitutional and the referendum-plebiscite which acted to ratify them is also unconstitutional, the conclusion is inevitable that despite the creation of the new interim *Batasang Pambansa* through the referendum-plebiscite, *the interim National Assembly shall continue to exist legally under the 1973 Constitution*. The referendum-plebiscite and the Supreme Court majority decision notwithstanding, the interim National Assembly can, therefore, still meet legally. Without giving up the idea of being able to meet while Mr. Marcos is President, *the interim Assembly should certainly meet when he is gone for the purpose of electing an interim Prime Minister as legitimate successor to bring about a peaceful and unbroken constitutional continuity to the restoration of democracy and constitutional government in our country*. [Italics added.]

On the eve of the voting, President Marcos and his Cabinet held a marathon television "phone-in" for nearly eight hours. No Opposition candidates participated.

The Western press reported that the ballot papers were distributed only in English and not in the regional dialects as required by law; the booths provided no privacy and ballots were permitted to be marked in pencil only. The penalty for not voting was set at six months imprisonment by presidential decree.

Official referendum results announced by the Commission on Elections on October 27 stated that 21,378,895 votes, or 90.5% of the electorate, were in favor of the continuation of Martial Law, with only 2% against, while 20,791,888, or 87.16%, had voted in favor of the constitutional amendments and 9.6% against.

The effect of this referendum was stated very clearly by Joaquin G. Bernas, S.J., in a lecture given on December 4, 1976, entitled "The Philippine Government Today":

Up until October 16, 1976, we could console ourselves with the thought that authoritarianism would be a very temporary affair and that when it finally ends it might take another generation before we are once again favored with a similar phenomenon. But on October 16, 1976, an amendment was approved which reads:

Whenever in the judgment of the President (Prime Minister), there exists a grave emergency or threat or imminence thereof, or whenever the interim Batasang Pambansa or the regular National Assembly fails or is unable to act adequately on any matter for any reason that in his judgment requires immediate action, he may, in order to meet the exigency, issue the necessary decrees, orders or letters of instructions, which shall form part of the law of the land. (Section 6.)

This is, as you can see, a declaration of distrust of any legislature, now or in the future, and at the same time an unconditional act of faith in the Presidency, now and forever. This is no longer temporary. This is a permanent arrangement.

Conclusion on the Use of Referenda

The technique of the use of referenda in an attempt to justify or legitimize the perpetuation of personal power is not without precedent in modern society. It has, for example, recently been used by President Park in South Korea, allegedly to give the imprimatur of public approval to his dictatorship.

The objections to the referenda held in the Philippines may be summarized as follows:

1. Martial Law is in effect.
2. Free public debate is prohibited.
3. Political opponents are in jail and some have been tortured or maltreated.
4. There is no free press, radio, or television.
5. The public media, especially television and radio, are used only as an instrument of Government propaganda.
6. There is no freedom of assembly.

7. Military forces dominate the nation.
8. The secrecy of the ballot is not preserved, with the inevitable effect of a substantial element of intimidation.
9. The counting and evaluation of the voting is done by Government nominees.
10. The issues presented are framed by the Government in a manner likely to achieve a certain response.
11. There is limited judicial review and no legislative control.

Under these conditions and circumstances the results of these referenda cannot be considered, in any way, as a true measure of the will of the people.

VI. Human Rights and Fundamental Freedoms under Martial Law

Economic, Social, and Cultural Rights

The Philippine Government ratified the Economic, Social, and Cultural Covenant of the United Nations on July 6, 1974, but has not ratified the Covenant on Civil and Political Rights.

Perhaps the best way to measure the compliance of the Philippine Government with the obligations it undertook when it ratified the Economic, Social, and Cultural Covenant is to comment on information supplied to us by various governmental agencies relating to the progress or lack thereof which the Government has made in the general areas of land reform, health, education, housing, and in a more individual way on the fundamental rights of the citizen to strike and to bargain for better wages and conditions of employment.

LAND REFORM

On September 26, 1972, five days after the Proclamation of Martial Law, President Marcos signed Decree No. 2, proclaiming the "whole country as land reform area." Approximately a month later, on October 21, in Presidential Decree No. 27, he set up the mechanism of transferring to certain tenants ownership of land and proclaimed that "at last land reform ceased to be an *unrealized* dream in our society."

The objective of the program was to transfer to approximately 1,000,000 tenant tillers (creating 350,000 new landowners) a total of 1,767,000 hectares of tenanted rice and corn lands. This represented approximately one-third of the 5,400,000 hectares of rice and corn land in the Philippines.

The entire land reform program, however, is currently substantially behind schedule.

As of 1975, the Government had issued *provisional* title to 200,000 tenant farmers to cultivate 431,000 hectares of rice and corn land. But performance subsequently tapered off and during the first ten months of 1976 only 15,000 tenant farmers had provisional title issued to them.

One political observer estimates that at the current rate of transfer of title, even in a preliminary fashion, the goals desired would not be achieved for approximately sixty years.

Furthermore, there is substantial evidence that the tenants were defaulting in the payment of their obligations to the Government and that it is highly unlikely that many of these tenants will receive final title to their lands. This situation comes about because of many different circumstances, such as

- crop failure in any one year, thereby placing the tenant in default;
- inadequate agricultural knowledge and aids in the development of his land;
- inability of small farmers to compete with larger farms having mechanized equipment;
- the inability of the Government to police and administer the various reform institutions;
- the excessively high average price of \$1,000 per hectare.

Although the Philippine Government is working diligently to make this program viable and more efficient by instituting various programs, such as “land-use planning,” and providing for “stretch-out” arrangements on the amortization of payments on the land and the like, the overall progress still remains inhibited in many ways, including the overwhelming opposition of the remaining landowning oligarchs to the redistribution of rice and corn lands to the tenants.

HEALTH

In its Declaration of Principles, the 1973 Constitution provides that the

State shall establish, maintain, and insure adequate social services in the field of education, health, housing, employment, welfare, and social security . . .

Since 1972 the Philippine Government has made significant improvements in its health care and facilities, including the building of more hospitals, the training of personnel, the implementation of a family-planning program, the improvement of the nutritional base for its population, the promotion of public sanitation, and campaigns against specific diseases.

In our opinion, the most serious threat of all is the malnutrition of the people. More than 7,000,000 of the estimated 20,000,000 Philippine children are affected by malnutrition. Most of these live in rural areas where public sanitation is poor, diets are inadequate and unbalanced, and health protection is inadequate.

We were concerned to learn that over 50% of the Philippine people are

malnourished and that an additional 30% received substandard nutritional intake to the point where it affects their overall well-being. Another striking figure is that approximately 74% of the children of ages one to six years are anemic and that only 30% of all preschool children obtain optimum growth and development.

It is hoped that massive nutritional programs will be initiated and carried out by the Government in order to meet this fundamental need of the people.

In the area of population control, the program has claimed that as of 1975 over 2,750,000 people had accepted the program itself. The Government has recently announced expanded programs of establishing educational facilities and clinics in the *barrios*. Presidential Decree No. 491, creating the National Nutrition Council and “Operation Timbang,” launched in 1974–75, has reached out to several million children, as have vaccination campaigns conducted through rural health units in an attempt to suppress the endemic tuberculosis and other communicable diseases.

It is hoped that the “brain drain” of Filipino doctors and nurses out of the country will be effectively curtailed and that these professionals will be channeled into the rural health areas in order to provide the necessary medical services for the rural Filipinos.

EDUCATION

The educational and literacy level of the Philippine people is one of the nation’s strongest social resources. The Philippine educational system has shown steady expansion in the years since the attainment of independence; school enrollment rose by 330% in the period 1946–75, with considerable expansion in the early 1970’s. Of the 13,200,730 students enrolled in 1975, 8,520,990 were in the elementary sector, 3,258,210 in the secondary, and 1,421,530 in the tertiary. Although literacy is widespread in the Philippines, outreach programs have been instituted in which 300,000 out-of-school children have been enrolled, together with adult literacy programs.

The tertiary sector shows an imbalance in those enrolled in commerce and business administration programs and liberal arts and sciences schools, with a corresponding low enrollment in the technical and natural sciences so important to the development of the nation’s resources. The private universities are an important contributor to Philippine higher education, training 89,807 graduates in 500 universities and higher-education institutions. Another major concern of the Department of Education and Culture has been the dissemination of the national language, Tagalog, along with English, which is the principal language of instruction.

From 1961 to 1971, the percentage of the National Government Expenditure devoted to education dropped from 30.7% to 28.68% under pressure from other demands. It is to be hoped that the allocation for education rises rather

than falls in coming years, to prevent any backsliding in this major social resource.

A striking comparison can be found in the fact that while educational expenses are decreasing, there has been a steady increase in the proportion of the national budget allocated to military expenditures.

HOUSING

Housing remains as one of the serious social problems confronting the Philippine Government. It is estimated by the Government that, to meet minimum housing requirements for the Philippine people, the staggering sum of 3,800,000 housing units will be needed.

This problem arises for the same reason that produces other problems—namely, an annual increase of some 250,000 to 300,000 new families, amounting to an average household increase of 4% per annum. Thus some 12 housing units are needed per 1,000 of the population, a demand of approximately 480,000 units annually.

On the other hand, housing construction amounts to only 2 units per 1,000, or less than 5% of the yearly demand.

Furthermore, of the approximately 4,000,000 existing housing units, about 500,000 are substandard, poorly constructed, and highly perishable.

This general situation gives rise, among other things, to the squatter problem in the Metropolitan Manila area (Tondo) where the Government is confronted with a serious social problem resulting from its attempt to resettle the inhabitants of this area.

In this regard it should be pointed out that the National Housing Authority of the Philippines estimates that only 35% of urban residents are capable of buying houses and land and paying the installments on loans that may be expected in order to finance new housing construction. In order to qualify for Social Security real estate loans, a person has to earn at least 500 pesos per month, which automatically eliminates approximately 88% of the people of the Philippines.

Furthermore, the local regulations requiring the construction of buildings to be in the more costly Western style further inhibits the ability of the poorer classes of the Philippines to meet housing standards, and Western-style projects in the *barrio* areas have received a less than enthusiastic response from the ordinary Filipino people.

One idea is to allow a poor man to build a "temporary house" which may not last more than twenty years. As one observer put it to us, "why must the law insist that he build a house that will last fifty years?" At any rate, this problem needs innovative and creative thinking, including the relaxation of building standards and the providing by the Government of new economic and social institutions, such as the "sites and services" plan whereby the Government provides the land and basic utilities.

THE RIGHT TO STRIKE

Despite the Philippines' ratification of the International Covenant's Article 8 on the right of labor to organize in trade unions which possess the right to strike, the rights of labor have been progressively narrowed since the introduction of Martial Law in September 1972.

General Order No. 5, issued simultaneously with the presidential decree proclaiming Martial Law, imposed restrictions on the right of labor to strike in essential industries, those producing essential commodities and those producing export products, with provision for the arrest and imprisonment of violators "for the duration of the national emergency" or *at the President's discretion*.

This decree remained in effect for three years, until late in October 1975, when contract workers at the La Tondena distillery went out on strike against the intermittent terms of their employment which left them without incomes at regular intervals. Their two-day strike was broken up by the military, but the employer subsequently granted their major demand and designated 300 of the 600 contractors permanent employees. Shortly after the resolution of the strike, two Italian missionaries who had actively counseled the strikers were deported.

Faced with mounting industrial strife, President Marcos on November 3, 1975, issued Presidential Decree No. 823, which was entitled "Strengthening Free Collective Bargaining and Trade Unionism within the Framework of Voluntary Arbitration, Prohibiting Strikes and Lockouts during the Period of National Emergency, and Regulating Foreign Activities in the Labor Field."

Decree No. 823 extended the prohibition on the right to strike beyond "essential industries" to include the entire spectrum of labor activity in all industries.

Specifically the Preamble amplifies the purpose of the decree by referring to

the imposition of sufficient administrative controls over the activities of aliens and foreign organizations in the labor field, including the friends of the country whose concern for the welfare of the Filipino worker is deeply appreciated.

Section IV provided that union organizers can be arrested "on grounds of national security and public peace."

Section VII prohibited all aliens and foreign organizations "from engaging directly or indirectly in all forms of trade union activities."

Section VIII prohibited all forms of assistance to laborers or labor organizations "without the prior written permission of the Secretary of Labor."

Section IX provided for immediate and summary deportation and permanent debarment from re-entry to the Philippines as the sanction for foreign violators of the decree.

Section X gave the Secretary of Labor summary jurisdiction over unresolved labor disputes.

Section XI provided for incarceration for the duration of the emergency for violators.

Section XII held the decree applicable to "all forms of farm tenants, rural workers and the like."

The implementation of Decree No. 823 faced increasing opposition from organized labor and particularly from church groups interested in the rights of workers.

On November 8, 1975, the National Council of Churches in the Philippines passed a "Resolution on the Right of Labor to Strike."

At the same time a letter, signed by Archbishop Jaime L. Sin of Manila and cosigned by 2,000 bishops, priests, and members of religious orders, protesting Decree No. 823, was sent to the President.

A similar letter was sent to the President signed by Archbishop Antonio Mabutias of Davao and bishops Joseph Regan, Carlos van Ouivellant, and Fernando Capella.

On November 16, 1975, the priests and religious of the diocese of Imus issued a declaration protesting the decree.

In the Manila area a Committee of Christians for Justice and Human Rights was formed for the same purpose.

Opposition to the decree reached a crescendo on December 6, 1975, when 6,000 people assembled at the Plaza Miranda (on the day when President Ford was visiting Manila) to demonstrate their opposition to the ban on the right of labor to strike for just wages and conditions of employment.

Public resistance to the decree is evidenced by the fact that between the time of the La Tondena strike and January 1976 it is estimated that twenty-five other factory unions went on strike and that the majority of these strikes were settled in favor of the workers.

The Philippine Government, as stated above, has ratified the International Covenant on Economic, Social, and Cultural Rights, Article 8 of which asserts the right of labor to strike. It is submitted that the severe limitations on the right to strike constitute a violation of the Philippine Government's obligations under this covenant.

Civil and Political Rights

THE RIGHT TO HABEAS CORPUS

In *Aquino et al. v. Enrile et al.* (September 17, 1974) Chief Justice Makalintal of the Supreme Court of the Philippines said of this right:

It need only be added that, to my mind, implicit in a state of martial law is the suspension of the *said privilege* with respect to persons arrested or detained for acts related to the basic objective of the proclamation, which is to suppress invasion, insurrection, or rebellion, or to safeguard public safety against imminent danger thereof. The preservation of society and national survival take precedence. On this particular point, that is, that the proclamation of martial law automati-

cally suspends the privilege of the writ as to the persons referred to, the Court is practically unanimous. Justice Fernando, however, says that to him that is still an open question; and Justice Muñoz Palma qualifiedly dissents from the majority in her separate opinion, but for the reasons she discusses therein votes for the dismissal of the petitions.

Justice Barredo concurred in the holding by adding:

It is, therefore, absurd to contend that when martial law, which is precisely the ultimate remedy against the gravest emergencies of internal or external aggression, is proclaimed, there is no suspension of the *Privilege* unless this is separately and distinctly ordered.

This most important fundamental right was placed in suspension by President Marcos for five months from August 1971 to January 1972 and then effectively *suspended indefinitely* with the imposition of Martial Law on September 21, 1972.

Traditionally the writ of habeas corpus provides a summary remedy to enforce the constitutional right of every person not to be deprived of his liberty by a judgment or order which is not "*jurisdictionally*" well founded.

However, whether or not there had been a valid exercise of "jurisdiction" (in the sense of power to interfere with individual liberty, without infringing upon basic rights so seriously that the infringing action was to be deemed void) was the usual question the courts were called upon to decide in order to determine whether or not the writ of habeas corpus should be sustained.

The effectiveness of the writ, therefore, ultimately depended on the courts' construction of the term "jurisdiction" or a discussion of the concept it represents.

It was generally accepted that the question of constitutionality is a jurisdictional one within the purview of the writ.

In the Philippines the Declaration of Martial Law suspends the constitutional guarantees and replaces them with presidential decrees, orders, and declarations which have the force of law.

The question of "jurisdiction" therefore must be determined by reference to presidential decrees and *without* reference to the Constitution and the basic rights it guarantees.

The privilege of the writ is emasculated because inquiry into the most fundamental freedoms guaranteed by the Philippine Constitution is foreclosed.

Nevertheless, many habeas corpus cases are being heard by the Supreme Court. The Philippine Government continually states that "the right to petition for habeas corpus remains open to all."

In a procedural sense this statement is accurate. One may petition the Court for a writ, but the Government's position is that on such an application it must only meet two criteria:

1. it must physically produce the prisoner in open court, and
2. it must show that the prisoner has been lawfully arrested.

Once the Government meets these simple requirements, argues the Solicitor

General, the courts may not inquire further into such matters as:

1. the constitutionality of the law, decree, order, or declaration involved,
 2. the length of detention,
 3. allegations of torture,
 4. the right to immediate public trial, and other related constitutional rights
- These rights are suspended under Martial Law, leaving the acts of the President unchallengeable for the duration of the state of emergency.

In the most recent cases of ten prisoners held for almost five years (*Nepomuceno et al. v. The Secretary of National Defense et al.*, filed on January 11, 1977), we were present in court in Manila and heard the Solicitor General argue that the Court had no jurisdiction to inquire beyond the fact that the defendants were lawfully arrested, which test was met by the Martial Law decree of the President authorizing the Secretary of Defense to arrest practically anyone engaged in political activity against the Government.

The right to petition is thus reduced from the broad scope traditionally associated with Habeus Corpus to the limited rights to have the detained person brought before the Court and to have the legality of his arrest established.

FREEDOM OF INFORMATION AND SPEECH

One day after the Declaration of Martial Law on September 21, 1972, President Marcos issued Letter of Instruction No. 1, which was directed to the Secretary of National Defense in the following terms:

You are hereby ordered forthwith to take over and control or cause the taking over and control of all such newspapers, magazines, radio and television facilities and all other media communications, wherever they are, for the duration of the present national emergency or until otherwise ordered by me or my duly designated representative.

Acting pursuant to this directive and others, the Philippine authorities immediately closed down the main newspaper, *The Manila Times*, and effectively took over all of the dissemination of information to the Filipino people. This control of the press exists to the present day, except for the *The Daily Express*, *The Times Journal*, and *The Bulletin Today*, which are allowed to function together with an associated television station, but all of which are either owned or controlled by or sympathetic to the Marcos regime.

The role of the critical press and media (publications and radio stations) was left almost entirely to mimeographed religious newspapers, publications, and reports, and two church radio stations.

Freedom of speech was effectively controlled by decrees preventing the dissemination of false or scandalous remarks concerning the Government, its officers, and its activities. General Order No. 19, issued on January 6, 1973, provides that

any person who shall utter, publish, distribute, circulate and spread rumors, false news and information and gossip . . . which cause or tend to cause panic, divisive effects among the people, discredit or distrust for duly constituted authorities, undermine the stability of the government and the objectives of the New Society, endanger the public order, or cause damage to the interest or credit of the State

may be arrested or detained by Philippine authorities as having committed a crime against the security of the State.

Simultaneously the Government issued certain rules amounting to a curfew preventing the circulating and travel of the Philippine people from midnight to seven o'clock in the morning.

In spite of all these restrictions, the churches and some other dissident groups courageously continued to publish and circulate critical comments relating to the Martial Law regime. Two of these publications, *Signs of the Times* and *The Communicator*, were most prominent in their opposition to the Government.

On December 5, 1976, *Signs of the Times* was closed by the Government, its equipment and documents impounded, and its leaders threatened with arrest and detention. On the same day *The Communicator* suffered the same fate.

On November 19 and 20, 1976, two church radio stations, DXBB in Malaybalay and DXCD in Tagum, were closed by military officials. Another station, DXBI in Basilan, was searched by military authorities on December 4 but was not closed.

Other, related incidents deserve mention here. One is the expulsion on November 2, 1976, of Arnold Zeitlin, for many years the Associated Press correspondent in Manila, for having released from Manila "false information concerning the Government." Another was a denial on February 16, 1977, of an extension of the visa of Bernard Wideman, a respected correspondent of the *Foreign Eastern Economic Review* and the *Washington Post*, on the grounds that he was an undesirable alien whose presence would be inimical to the interests and security of the nation because of articles he had published concerning the Martial Law regime. Although his visa recently has been extended, the action of the government will undoubtedly have a chilling effect. There has been a recent expulsion by the Philippine authorities of Catholic priests who have been active critics of the regime.

More recently we have been advised that on June 12, 1977, Philippine Independence Day, two newspaperwomen and a newspaperman were arrested by the Northern District Police Commander while covering an anti-Government rally of over 1,000 persons at St. Joseph's College in Quezon City. They were Marilyn Odchimar of the Japanese Kyodo News agency, Nelly Sindayan of the Tokyo newspaper *Yomiuri Shimbun*, and Rey Palarca of United Press International. After a period of interrogation, they were released.

Police surrounded the college and the participants refused to leave except as a group. After twenty-four hours they left in cars and buses driven by nuns

and priests. As they passed single-file through the main door, a photograph of each person was taken by a military photographer.

Although some religious publications remain, such as *The Dialogue*, and although meetings are allowed to be held on a local basis from time to time, it can fairly be said that any substantial opposition by way of press, speech, demonstrations, or other expressions of opinion are and will continue to be suppressed by Philippine authorities so long as Martial Law continues.

FREEDOM OF MOVEMENT

On the same day that the President declared Martial Law he issued Letter of Instruction No. 4, which was a general directive to the Secretary of Foreign Affairs

not to issue travel papers of any kind such as passports and other like documents to any citizen of the Philippines who may wish to depart from the Philippines for any foreign country after the date of this order . . .

These instructions continue in effect to the present time and are employed by the Government for various reasons, such as:

- to exact from those wishing to travel allegiance to the Government.
- to prevent those in opposition to the Government from criticizing or carrying on anti-Government criticism abroad.
- to require those wishing to leave to participate in the benefits of the New Society—i.e., requiring many to take a 2–3-hour refresher course in the activities of the Martial Law Government.
- to prevent certain Philippine nationals living abroad from returning to their country because of the threat of not being allowed to leave the Philippines again.

One member of the mission interviewed a leading television producer, a director, a leading actress, and an educator who were denied the basic right to leave and return to their country.

Lately there are some signs that travel restrictions have been somewhat relaxed, as is indicated by the presence in a foreign country of a leading senator and a leading prelate who have opposed the New Society. It is hoped that this trend will continue.

FREEDOM OF ASSOCIATION

The principal and most effective opposition to Martial Law has come from those sections of the Catholic Church which have been and are the subject of attack by the Government. The attack initially was limited to the closing down of their publications and the seizure of their radio stations, but in the latter part of November 1976, a decision at the highest level was made to attempt to further silence the growing voice of the Church and to impose a severe restraint on the right of the hierarchy and the faithful to associate among themselves in the common pursuit of their ministry.

At first the actions of the Government took a sinister and bizarre form.

There was released or leaked to a select group a document which commenced with the following “(Accused of sedition and inciting rebellion)” and the words “Charge Sheet.” It contained a list of 155 persons charged *inter alia* with being officers of or associated with the Communist Party of the Philippines and other Communist organizations with the specific intent of taking up arms and overthrowing the Government of the Philippines. This list, of which 29 were members of the Roman Catholic hierarchy (including four bishops) and 126 were clergy and lay workers of the Church, was circulated quietly in Manila in or around December 1976. (A copy is annexed as Appendix B.)

The assumption has been that the circulation of this list was an implied threat to arrest these important priests and laymen should the Bishops’ Conference then scheduled for February 1977 take any adverse action affecting the Philippine Government.

The reaction to the release of this list was immediate and severe. Although the authorities did not carry out the threat to arrest all 155 listed in Appendix B, the opposition of the Church to the Government hardened.

Because of these events and others and because opposition in the Church was growing, the Government in December 1976 issued an order for the arrest of 208 members of the Catholic Church, including eleven members of religious orders and many of the lay leaders of the Church, charging them with “rebellion and inciting to sedition.” (A copy of the charge sheet is annexed as Appendix C.)

Of those charged approximately 75 were arrested and detained, and the remaining received summonses to appear for preliminary hearing on February 8, 9, and 10 before a military commission at a hearing to be held on a tennis court at the Philippine Constabulary Headquarters in Davao City.

To intensify the importance of the hearings, the Government included in those to receive a preliminary hearing the detainees Father Edicio de la Torre and Father Narco, both of whom had been arrested some years before for sedition and rebellion. The idea seemed to be to give a public impression that the Catholic Church, as a whole, was engaged in a conspiracy with the Communist Party to bring disrepute on the Marcos regime.

On the return date of the hearing, approximately 54 of the named defendants appeared in the presence of a public gathering at the tennis court, to give a preliminary answer to the charges. None of the detainees had seen the sworn affidavits of certain witnesses which were allegedly given to the Government. These witnesses were officials of an organization called Panamin, a Government organization concerned with national minorities. Two of these witnesses swore that the defendants had associations with the Communist Party and were engaged in a conspiracy to undermine the Government.

It is unclear why the Government chose to take the most unusual step of holding a judicial inquiry in public on this scale unless it was to intimidate those Church members actively opposing Government programs.

These charges are still pending against these defendants. In fact, they remain

in limbo and the Government has not proceeded to prosecute further as of the date of this report.

However, at a bishops' meeting in February 1977, for the first time since Martial Law a majority of the bishops, 66 out of a total of 82, signed a statement condemning the action of the Government in its attack on the Catholic Church. One clause stated:

It is most unfortunate that in many cases . . . evangelizing work has been misunderstood by the government and led to the arrests of priests, religious and lay workers and even the deportation of foreign missionaries.

On January 8, 1977, the distinguished Bishop Francesco Claver issued a pastoral letter which ex-communicated all those who engaged in the torture of political detainees.

We consider these actions by the Philippine Government to amount to an unwarranted harassment and unjustified restraint on the freedom of members of the Catholic clergy and its lay workers and faithful to associate with each other in the common cause of their ministry.

PROLONGED DETENTION WITHOUT TRIAL AND TORTURE

Since the inception of Martial Law, the Government has arrested some 60,000 people. In May 1975 this number amounted to 50,551 persons, of whom 45,958 had at that time been released from custody, leaving 4,553 still under detention.

In February 1977 precise figures were not available, but the Government stated that of the 60,000 persons arrested since the inception of Martial Law approximately 4,000 were still under detention. Of these, 1,400 were "subversive detainees" and 2,500 were persons who allegedly had participated in the commission of a common crime. None of these had yet been brought to trial.

Of the 1,400 "subversive detainees," it can be reliably estimated that approximately 250 to 300 had been held for long periods of time, many as long as five years, or since the declaration of Martial Law in September 1972. The remaining 1,100 or so are a floating population which changes from time to time depending upon the incidence of arrests and releases.

As already stated, in February 1977 we attended the habeas corpus hearings of ten detainees before the Supreme Court. Each had been held since the inception of Martial Law and had not at the time of the hearing been formally charged. No explanation for such an unreasonable period of detention was given by the Government. We visited several detention centers, namely Camp Bicutan, Camp Crame, the Youth Rehabilitation Center, and the Maximum Security Unit at Fort Bonifacio, as well as detention centers in Cebu, Davao City, and Tagum. We interviewed approximately 120 detainees as well as military officers responsible for their safety and well-being.

Our interviews led us to conclude that the Government, especially in cases

involving alleged membership in or association with the Communist Party of the Philippines and/or the Moro National Liberation Front, acts in an arbitrary and unreasonable way in that

1. it fails to obtain the proper arrest warrants and arbitrarily picks up suspects, thereby denying them their legal safeguards;
2. detains these detainees without charges in private houses and places known as "safehouses";
3. regardless of the disciplinary proceedings mentioned later in this section, has condoned the infliction of torture by security agents of the military during sometimes very lengthy interrogation processes, using such methods as water treatment, electric shock, isolation for long periods of time chained to beds, etc., and physical beatings.

We found no instance of torture after the detainee had ultimately been turned over to a military camp or hospital. The most shocking case was the death, as we believe while under interrogation by security agents, of a twenty-eight-year-old girl named Purificacion Pedro, on which we will elaborate further in this report.

Perhaps the best way to document the aforesaid statements is to summarize very briefly the allegations made to us by 24 detainees, all of whom we found convincing. All these detainees had been arrested since January 1976.

Saturnino C. Ocampo, former assistant business editor and economic writer of *The Manila Times*; vice-president of the National Press Club of the Philippines 1970-71 and NPC director-secretary 1971-72; president of the Business-Economic Reporters' Association and director of his newspaper's workers' union. Arrested January 1976 and taken to operations center of the 1st Military Intelligence Group (1MIG) at Camp Olivas, Pampanga, headquarters of the First Constabulary Zone; interrogated under duress by Maj. Benjamin Libarnes, executive officer of the First Police Constabulary Zone Intelligence Division, and officers of the 1MIG, Fifth Constabulary Security Unit (5CSU), Metrocom-Intelligence and National Intelligence and Security Authority (NISA). Confined in solitary until taken on January 14 to a safehouse, manacled, blindfolded, subjected to electric shocks intensified by the pouring of cola drinks on his body, particularly at the points of electric contact; slapped on ears and nose, esophagus and head. Later burned on nipples and genitals; forced to eat excreta; threatened with castration and death. Transferred to Fort Bonifacio, where he was interrogated by Col. Miguel Aure, Chief of 5CSU, and other officers of NISA and 5CSU. Subsequently abused by Lt. Aguinaldo of 5CSU and Lt. Antonion Baquiran of 1CSU. Kept in safehouse of 1CSU for seven weeks before being transferred to isolation cell at Camp Olivas. He was visited by First Police Constabulary Zone Commander Brig. Gen. Thomas P. Diaz, who did not believe Ocampo's torture reports until shown the marks on his body, then exclaimed "My God" and promised that Ocampo would no longer be harmed. Ocampo was permitted visitors for one hour a week after two months of detention, and sunning and exercise after the third month. He was kept incommunicado from the other political prisoners. Transferred to Bicutan on July 6, 1976, but the next day was peremptorily taken away and placed in a solitary cell at the HPC Stockade in

Camp Crame, where he was held incommunicado for three months, denied sunning, visitors, and some reading material. Transferred to regular detention area for political detainees at HPC Stockade 4-B on October 1, 1976—nearly nine months after his arrest.

Carlos Centenera was arrested January 11, 1976, by elements of the 5CSU; brought to a safehouse and held incommunicado for five weeks, during which time he was beaten, strangulated with bare hands, electric wire, and steel bar such that his speech was impaired for two months; had bullets pressed between his fingers, hit with rifle butts and subjected twice to "russian Roulette"; subjected to water cure for approximately thirty minutes and similarly to electric shocks. Named Lt. Rodolfo Aguinaldo and Lt. Batac of 5CSU, Lt. Elnora Estrada of 5MIG (Intelligence Service, Armed Forces of the Philippines), and Lt. Alvarez of 5CSU as being present and participating in the torture sessions.

Guillermo Ponce de Leon was arrested on January 11, 1976, by elements of 5CSU; confined to a safehouse for ten days, where he was stamped on, hogtied, and subjected to water cure, electric shock, and strangulation. Named Capt. Milo Manlulu, Lt. Batac, Lt. Alvarez, and Sgt. Ricardo of the 5CSU, with Lt. Elnora Estrada of 5MIG (ISAFP) as his torturers.

Leonardo Manalo was arrested on January 11, 1976, by a joint team of 5CSU, 5MIG, NISA, and Metrocom agents. Brought to two safehouses, where he was beaten and kept incommunicado for six days; confined in a small toilet blindfolded and handcuffed for three days. Kept incommunicado for a total of one and one-half months and contracted viral hepatitis.

Erlinda Tarve-Co was arrested January 14, 1976, at Olangapo City by elements of 1MIG (ISAFP), Z-2-1CSU, with her five-year-old son; interviewed by Gen. Diaz and Col. Quila at Camp Olivas, and promised fair treatment. However, early the next morning she and her son were taken to a safehouse where she was separated from her son and incarcerated for twenty-five days, blindfolded and handcuffed to a metal bed, with intermittent torture by punching over the body, beating of the head, and sexual indignities. Was transferred to Female Detention Center on February 8, and her child permitted to join her. More than a year passed before she was given a formal charge sheet and informed that she would be arraigned on February 28, 1977. Her husband has been detained for seven years. She named Lt. Baquiran and Lino Malabanan of 1MIG (ISAFP) as among her torturers.

Marcelino Talam, Jr., y Magno was arrested on January 11, 1976, and taken to a safehouse where he saw two other detainees (Leonardo Manalo and Johnny Villegas) being tortured. In the presence of Col. Aure he was beaten, punched, and kicked; by about fourteen agents, punched and kicked while seated with his arms tied behind the back of his chair, lighted cigarette butts pressed against his back and eyelids. Those participating in the torture included Lt. Batac and Lt. Bibit. After transfer to a second safehouse, he was taken to CSU Camp Crame on January 13, where he was denied legal counsel, held incommunicado, and tortured by Lt. Amores. In the process of making statements without the benefit of legal counsel, he was pistol-whipped. Capt. Poblete participated in the physical intimidation of the witness at this stage.

Lualhata Regio-Bayesis was arrested on January 15, 1976, by First Police Constabulary Zone authorities. Sexually abused and tortured by Maj. Benjamin Libarnes, deputy and executive officer of the 1CSU 1PC Zone, and Sgt. Lino

Malubarnes of 1MIG 1PC Zone and others. Kept incommunicado for twenty-one days, and denied rest or medical treatment despite weak heart due to rheumatic condition.

Macario D. Tin was arrested on February 4, 1976, by elements of the 4MIG, taken to Camp Evangelista, where he was tortured for two days, beaten into unconsciousness on the second night. After signing a statement without benefit of counsel, he was taken to Camp Alagar a week after his arrest.

Alfonso Abzagado was apprehended on July 21, 1976, by elements of the Criminal Investigation Service (CIS) without presentation of Arrest, Search and Seizure Order or warrant for arrest; taken to a safehouse and subjected to water cure; transferred to another safehouse of the 5CSU where he was subjected to electric shocks, beating, cigarette burns, strangulation by rope. Incarcerated for three weeks in a toilet until transferred to Camp Crame in isolation in mid-August; thence Stockade 4 on October 16.

Ricardo Fajardo was also arrested on July 22, 1976, by elements of 5CSU and CIS; held in safehouse for three weeks and incommunicado for two months; kicked and punched on various parts of his body. Named Lt. Delfin and Lt. Aguinaldo of 5CSU as his tormentors.

Roberto Sunga was arrested on July 23, 1976, by 5CSU operatives; taken to safehouse, beaten and pistol-whipped and suffered permanent impairment of senses of smell and hearing; subjected to electric shocks and an attempt was made to compel him to subject a fellow detainee to the same treatment. Named Lt. Delfin and Lt. Rodolfo Aguinaldo of 5CSU and Capt. Saldajeno as being present and participating in the torture sessions.

Philip Limjoco y Espirito was arrested on July 23, 1976, and subjected to electric torture, cigarette and candle burns; transferred to another safehouse after three or four days where he was subjected to the water cure; after three weeks in the safehouses he was transferred to 5CSU headquarters, where he was held incommunicado in isolation for five weeks. Only after three months was he transferred to the regular detention center at HPC Stockade 4-B.

Eugenio M. Magpantary was arrested by members of the 5CSU and 221st PC Company in Taytay on March 11, 1976. Was subjected by Sgt. Larry Untayas to water cure, and was beaten by the same officer. Transferred by 5CSU to a safehouse on March 12, where he was subjected to electric-shock torture.

Joseph Gatus was arrested on August 1, 1976, by 5MIG (ISAFP) and taken to safehouse where he was subjected to water cure, electric shock, cigarette burns, scalding, pistol-whipping, and beating; held incommunicado for nineteen days and urinated blood for several days as a consequence of these abuses.

Meynardo G. Espeleta was arrested by elements of 5MIG (ISAFP) on August 4, 1976, held incommunicado for sixteen days, during which time he was subjected to water cure and electric shock, slapped about the ears and face, strangulated, and a concentrated peppery substance placed on his lips and genitals.

Maria Alena Ang was arrested on August 5, 1976, by a combined force of 5MIG (ISAFPONISA) agents led by Maj. Uguerra; kept incommunicado for fifteen days at ISAFP headquarters in Bagoabantay, Quezon City, and in a safehouse; subjected to electric shock, water cure, sleep deprivation, sexual indignities, pistol-whipping, and threats to her relatives. Named Maj. Uguerra and Maj. Liola of ISAFP, Atty. Castillo of NISA, and Lt. Batac of 5CSU as her torturers.

Jose Kitching was arrested on December 6, 1976; before he was taken to Bicutan seven weeks later on January 29, 1977, he had been subjected to electric-shock treatment at a safehouse and kept incommunicado; at the time of the interview he had not undergone SPI (Special Preliminary Investigation).

Andrew Oompao was arrested on October 17, 1976, apparently for being in possession of referendum literature, despite the decree ensuring freedom of discussion; he was subjected to water cure and electric-shock treatment at the M-2 safehouse.

Willie Tatania was arrested during the referendum period of October 1976 by agents of the M-2 and subjected to electric shock and strangulation, and was kept incommunicado through one month in a safehouse code-named the "Sera Hotel."

Juan Villegas was arrested in January 1976; taken to a safehouse where he was beaten, strangled, threatened with death, made to squat through one night, and held incommunicado for a month before being taken to Camp Crame. At the time of the interview he had not been charged.

Mr. Nacariotu was arrested in Davao in February 1976; he was taken to a safehouse where he was punched unconscious and later taken to Camp Evangelista, where he underwent two SPI appearances but has not yet been charged.

William Postelion was arrested on January 11, 1976, and subjected to severe physical torture during eleven days in a safehouse before being transferred to Camp Crame. His SPI has proceeded, but he is not yet charged with offenses.

Juanito de los Reys was arrested by Colonel Bibit on December 11, 1976; he was beaten and kicked during his initial interrogation and saw and heard the effects of torture on others; he tried to commit suicide rather than undergo a similar ordeal, but was prevented from doing so and transferred to Cebu after being held incommunicado for forty-three days by CSU.

Nathan Quimpo was arrested on October 9, 1976, by elements of the 7th RD, MSU, Philippine Army, at the Colegio de San José-Recoletos; taken handcuffed and blindfolded to Camp Lapu-Lapu, Cebu City. In the course of the tactical interrogation, electric-shock treatment was applied, and he was punched and gun-whipped by a group of twelve men. Presently detained in the Lahug Detention Center under austere conditions but permitted to engage in handicrafts and cook food brought in by visitors, who are restricted to their families and one religious.

Since we left the Philippines, we have been apprised of the following case:

Mrs. Trinidad Herera, arrested on April 26, 1977. The details of this detention are not clear except that it appears that she was held incommunicado from April 26 to May 6, when she was located in a Manila detention center. Unconfirmed reports indicate that she was given electric shocks and her lawyer reports that "it took some time before she showed signs of recognizing me." It is reported that "she showed signs of recognizing me." It is reported that "she would merely sit and stare blankly with tears rolling in her eyes." She is president of Zotoz, an organization of slum dwellers in Tondo which has questioned and opposed Mrs. Marcos' plans for slum clearance in this slum area in central Manila.

It is also reported that three other Zoto leaders have been arrested in an attempt to frustrate its annual meeting on May 15, 1977.

We have just been informed that President Marcos has ordered a court-martial inquiry of a Lieutenant Edwardo Mantillano and his group for alleged physical injuries and maltreatment of Mrs. Herera during her initial interrogation.

THE CASE OF PURIFICACION PEDRO

There is strong circumstantial evidence that this young lady aged twenty-eight years was killed by use of excessive force by overzealous security agents, among whom are Colonel Miguel Aure and Lieutenant Garcia, who, with others operating out of the Fifth Constabulary Security Unit, have been repeatedly charged by victims of having inflicted torture from time to time during Martial Law.

The story of the death of Purificacion Pedro as stated below is based on interviews taken by us from the sister and brother of the victim, from close friends, and from the questioning by Mr. Butler and Professor Humphrey for over half an hour of the alleged perpetrator of the crime, Colonel Miguel Aure, at offices of the Department of National Defense in Manila, in the presence of the Solicitor General, the Secretary of Defense, and other military officers.

Miss Pedro graduated tenth in the class of 1971 of the UP School of Social Work. She contemplated entering a religious order, but decided to work with the NASSA group on its Zone I, Tondo program (in which Father de la Torre was active before his arrest in 1974).

On January 17, 1977, Miss Pedro told members of her family that she was going away for two or three days with friends; after her arrest she told her brother that these friends were associated with the New People's Army. They drove into the hills for several hours, and then walked through the night until about 7 A.M., when four others joined the group, all wearing sidearms. At about 10 A.M. the group was engaged in a clash with a patrol of the Philippine Constabulary; Miss Pedro was shot in the shoulder and captured, while her associates escaped.

Miss Pedro was taken to Bataan Provincial Hospital and operated on for her wounds, which were not critical. She was placed under heavy guard in the hospital's X-ray room. When her family visited her in the hospital she expressed real apprehension about her safety, and said that she had been interrogated already by seven teams, including Colonel Aure of the CSU. Despite his skepticism, her brother arranged for her sisters to stay by her room throughout the next days. According to the affidavit of Mrs. Carmen P. Gaspar, sister of the detainee, four men in civilian clothes ordered her out of Miss Pedro's room at about 5:45 P.M. on January 23, 1977. She identified one of the men as Lieutenant Garcia. It was Lieutenant Garcia who, when he emerged from the room at about 6:15 P.M., informed Mrs. Gaspar that her sister was incom-

municado. At about 6:30 P.M. the evening meal for Miss Pedro was delivered to the inside guard; a few minutes later the inside guard called to the outside guard. Mrs. Gaspar caught the word "*Bigti*" ("Hang") and rushed in. She was the first to enter the bathroom:

We found my sister in a standing position, her upper body leaning toward the corner, with a cord tied to her neck. I supported her head up to help her breathe (I was hoping she was still alive), and I felt her dress was wet, all the while that I was waiting for the guard to get a knife.

Both feet were on the floor, with her head leaning towards the corner near the towel rack, she was not facing away from the wall. (When I heard the guard say the word "*Bigti*" before I saw her, I had imagined that I would find her tongue sticking out, and with her feet some distance from the floor. But it was not so.)

As I clasped her body, I noticed that her clothes were wet, but the floor was dry, as I was barefoot. (I had left my step-in in the corridor.)

The towel rack to which the hanging cord was tied was only five feet five inches from the ground. My sister is about five feet. Someone then cut the hanging cord first, and then the cord tied to her neck, and they carried her (by that time a number of people were on hand to help) to another wing of the hospital. I followed them inside the emergency room but someone led me out. I waited outside crying. About fifteen to twenty minutes later, when the door opened, I knew from their faces that my sister was dead. They brought her back to her room. At around 7:15 P.M. or thereabouts the doctor came to examine her and confirmed her dead. As I was wiping her body after the doctors had pronounced her dead, I found a medal clenched in her right hand. It was the Miraculous Medal which my sister Aurora had given to her the day before she died.

No autopsy was performed on Miss Pedro's body. The death certificate issued by Dr. Ernesto S. Soriano indicated that the victim died of asphyxia due to strangulation by hanging. According to an investigation conducted by two separate agencies of the Bataan Constabulary Judge Advocate, it was asserted that while Colonel Miguel Aure had visited her on the forenoon of her death, "it was established that Colonel Aure and his men had already left the hospital when Purificacion Pedro asked permission to go inside the toilet where she was later found dead." This investigation placed Colonel Aure's arrival at the hospital at "about 4:30 o'clock in the afternoon." The statements of the inside and outside guards placed the arrival of the interrogation team between 4:30 and 5:00 P.M. and stated that they were in the room for some forty-five minutes. The military authorities hold that Miss Pedro's death was a suicide.

We have serious reservations concerning the accuracy government's finding arising from the following observations:

1. There was no autopsy ordered.
2. A review of her past life and nature leads us to believe that she was not suicidal.
3. There were indications that she died from drowning rather than from asphyxiation by hanging.

4. Our questioning of the military security agents involved produced, in our opinion, serious questions concerning their credibility.

5. The fact that death occurred within an hour of the admitted interrogation of Miss Pedro.

We are citing this case, not to imply that these security agents were acting on direct instructions of the Government (although we hope that their involvement will be thoroughly investigated), but to illustrate the use of excessive force inherent in any martial law or military regime.

PUNISHMENT OF MILITARY PERSONNEL FOR MALTREATMENT AND TORTURE OF PRISONERS

The Philippine Government through the Secretary of Defense has made some effort to prosecute military personnel for violating the Military Code prohibiting the maltreatment and torture of prisoners.

A memorandum of the Secretary of Defense dated January 2, 1975, disclosed that out of thirty-two cases where members of the Armed Forces were charged with maltreatment of detainees, eleven were punished with unspecified sanctions, two were demoted in rank, one was admonished, six cases were dismissed for lack of evidence, and eleven were under investigation or trial.

In June 1976 it was revealed that courts-martial had been ordered for "more than twenty" military personnel for torture or maltreatment of detainees. Trial proceedings reportedly commenced on September 14, 1976, for four members of the Philippine Constabulary.

On November 9, 1976, the Philippine Government announced the dismissal of 327 members of the Philippine Armed Forces for various abuses, including torture and maltreatment.

During our visit we were given a list of seventeen military men who were given punishment other than separation and discharge, including reprimands and reductions in rank, for maltreatment.

To our knowledge the most severe punishment imposed has been "six months at hard labor" for torturing three detainees.

Also, reviewing the records of the Secretary of National Defense, there is noticeably absent any reference to certain officers whose names repeatedly appear in interviews with detainees who claim to have been tortured.

It is hoped that the Government will pursue with an honest vigor the investigation of those military officers involved at the time of the death of Purificacion Pedro in January 1977.

From the information we have received, we accept that the Government has taken some steps to prevent torture, and has succeeded in reducing its incidence compared with the scale of torture which existed during the first two years of Martial Law. Serious cases of torture are, however, still occurring and we believe that this is due to failure of the Government to impose sufficiently

strict control over the methods employed by certain interrogators, to terminate the use of "safehouses," to bring to trial all of those responsible for these illegal practices, and to ensure that their offenses are punished with the severity which they merit.

VII. The Judicial System

Dominance of Military Tribunals

Although the civilian courts, including the Supreme Court of the Philippines, continue to function and to handle ordinary cases, President Marcos has by presidential decree transferred to Military Tribunals an extensive domain of judicial jurisdiction over civilians, including among others all matters involving

1. the validity and legality of the Martial Law Proclamation,
2. all crimes involving national security,
3. crimes committed by public officers,
4. crimes relating to the Anti-Subversion Law, the Espionage Law, and the Hijacking Law,
5. all crimes concerning rebellion, insurrection, sedition, conspiracy, illegal assemblies, and illegal associations.

A more detailed list showing the narrowing of the jurisdiction of civilian courts and the expansion of the jurisdiction of military courts is set forth in the annexed paper of former Chief Justice Roberto Concepción (Appendix A).

The International Commission of Jurists has recently expressed its opposition to the trial of civilians by Military Tribunals even during a state of emergency. Particularly objectionable is General Order No. 39, of November 7, 1972, which provides not only that Military Tribunals shall have jurisdiction to try civilians but also that during a summary investigation to be conducted before any charge is referred for trial "the accused has no right to counsel."

These procedures as well as others have been objected to by the Integrated Bar of the Philippines on the ground that they unduly enlarge the intervention of the Armed Forces in civilian matters and seriously and severely undermine the role of the civilian judicial process.

The Integrated Bar of the Philippines has also objected to military personnel issuing and serving subpoenas couched in threatening terms, and to the widespread ignorance of local military authorities about the procedures prescribed by various presidential decrees. We were told that the military authorities had on several occasions even threatened to detain defense lawyers who came to the assistance of their clients.

In our view the normal courts of the Philippines, with their civilian judges

and public prosecutors, are more than adequate to perform their functions and to administer the processes of law under Martial Law. In these circumstances we consider that military tribunals are unnecessary and unwarranted.

Summary of Cases Processed through Military Tribunals

A. On May 6, 1976, when speaking to the Command Conference of the Armed Forces of the Philippines, the Deputy Judge Advocate General, Colonel Vicente Pascal, Jr., reported:

As of date, JAGO has handled a total of 12,700 cases/complaints, of which 8,184 have been disposed.

. . . of the more than 8,000 cases/complaints disposed, 1,442 or 17.5% were returned for lack of jurisdiction, 2,563 cases or 31.3% were dismissed after the requisite preliminary investigation for insufficiency of evidence, 3,527 or 43.1% were remanded to the civil courts due to lack of jurisdiction by virtue of General Order No. 49 (which directed the return to the civil judicial authorities of most of these cases originally allocated to the tribunals under GO 12, as amended), and only a total of 614 cases or .075% were actually referred to and disposed by the military commissions, thereby still leaving a staggering balance of 4,500 cases. These figures exclude the amnesty applications which roughly number about 2,000.

It might be interesting to note that of the 614 cases tried and terminated by the commissions, 340 resulted in convictions and only 197 wound up in acquittals, or a ratio of 2 convictions for every acquittal, which inferentially would show that the tribunals are not "kangaroo courts" or "hanging juries," as was initially bruited about in certain private quarters during the earlier stages of martial rule.

Of the balance of about 4,500 cases pending action, 2,798 cases or practically 60% have been farmed out to the staff judge advocates and other lawyer officers in the field for preliminary investigation in line with the approved decentralization plan of the Office to facilitate and expedite action on these cases while 1,287 cases or 28.5% are pending preliminary investigation in GHQ. The bulk of the latter figure consists of subversion, rebellion and other security cases which for obvious reasons have to be investigated at home base. About 253 are pending with the military commissions for trial with about 65 cases sent to SND (Secretary for National Defense) for action per Dept. Order No. 1103. You will note that only 97 cases are pending screening with the Military Tribunals Branch. It is expected that the majority, if not a substantial number of these cases will be resolved in a year's time. Subsequent projections will depend upon the rate that new cases will be received for preliminary investigation.

Incidentally, a total of 107 persons have been sentenced to death in about 35 cases, 36 of whom are involved in the now famous Bantay arson cases.

Focus is drawn to the cases terminated by the tribunals and pending after-trial review/appellate action. Out of 472 cases in this category, 223 are pending transcription of the proceedings by the court reporters and 157 are distributed to 14 boards of review the members of which perform this task in addition to their usual multiple duties. At the rate cases are being finished by the tribunals, this figure of 472 is expected to swell to 750 within the next six months, while only about 100 at the most are forecast to be finally acted upon and military commission orders announcing the final result of trial issued within the same time frame.

... There is, therefore, a geometric progression on the input and only an arithmetical progression on output in review and action after trial.

As side information, we may mention at this point that generally two to three out of ten accused are military personnel and that the latter are normally charged with serious offenses such as kidnapping for ransom, robbery, murder or homicide, malversation and/or misuse of public funds or government property, graft and/or corruption, crimes against chastity such as rape or seduction, and crimes committed by public officers such as infidelity in the custody of prisoners. Seldom is a military member charged with subversion or any of the security or public order offenses.

Among the civilian respondents or accused, about 25% are charged with subversion or rebellion and the other security or political offenses while approximately 35% to 40% are accused of illegal possession of either firearms or explosives, with or without incidental offense. The residue is made up of estafa/swindling, prevailing through bouncing checks, other forms of large-scale frauds, and the so-called "public interests" cases under GO No. 49; i.e., those referred to the tribunals by the President instead of the civil courts although normally cognizable by the latter.

The Deputy Judge Advocate General cited the lack of trained manpower for the slow rate of progress of the military tribunals in their widely expanded jurisdiction.

B. On January 31, 1977, the updated status of cases provided by the Office of the Prosecution Staff of the Military Tribunals under the signature of its Chief, Colonel Casaclang, was as follows:

Republic of the Philippines
ARMED FORCES OF THE PHILIPPINES
MILITARY TRIBUNALS
OFFICE OF THE PROSECUTION STAFF
Camp General Emilio Aguinaldo
Quezon City

STATUS OF CASES AS OF 31 JAN. 1977

I. CASES/COMPLAINTS RECEIVED	14,805
A. CASES DISPOSED	9,394
1. Returned to complainants for lack of jurisdiction/cause of action	1,528
2. Referred/returned to civil authorities for lack of jurisdiction	3,589
3. Dismissed after SPI	3,424
4. Transferred by Military Tribunal Staff to civil courts per General Order 48	124

5. Terminated by MTS	729
b) Acquittals	193
c) Withdrawals	46
d) Archived	40
2. Terminated military personnel cases	86
a) Convictions	50
1) Cases with death sentence	4
2) Persons sentenced to death	6
3) Persons executed	0
b) Acquittals	36
3. Pending trial	340
a) Civilian cases	297
b) Military personnel	43
4. Transferred to civil courts per GO 49	124
B. GHQ PROVOST COURTS	71
1. Terminated civilian cases	28
a) Convictions	15
b) Acquittals	8
c) Withdrawn	5
2. Terminated military personnel cases	4
C. CASES PENDING	5,411
1. For recording/indexing	0
2. For screening/pre-evaluation	102
3. For SPI by Pros. Staff, MT	2,627
a) Sec. Br., Prosecutor's Staff Military Tribunals	305
b) Non Sec. Br., PSMT	112
c) AJA	245
d) PAFJA	42
e) NJA	302
f) CJA	1,621
4. For evaluation	1,538
5. For Secretary for National Defense approval	553
6. For trial by MTS	591

II. REFERRED TO MILITARY TRIBUNALS FOR TRIAL		1,320
A. MILITARY COMMISSIONS		1,161
1. Terminated civilian cases	611	
a) Convictions	332	
1) Cases with death sentence	34	
2) Persons sentenced to death	139	
3) Persons executed	3	
a) Convictions	2	
b) Acquittals	1	
c) Archived	1	
3. Pending trial	39	
a) Civilian cases	33	
b) Military personnel cases	6	
B. REFERRED BY TJAG TO THE MAJOR SERVICES PROVOST COURTS		88
1. Pending trial (civilians)	65	
2. Pending trial (military personnel)	23	
III. CASES PENDING POST-TRIAL PROCEEDINGS		403
A. PENDING TRANSCRIPTION		170
B. PENDING REVIEW UNDER PD 566		242
1. With SJA Major Services (Provost Court cases)	71	
2. With Board of Review	77	
3. With SJA for CSAFP	50	
4. With Military Board of Review, OSND	36	
5. With Office of the President	8	

MANUEL B.
CASACLANG
Colonel JAGS(GHQ)
Chief, Prosecution Staff
Military Tribunals

Thus in the eight-month period from May 1976 to January 1977 it would appear that there was an increase of 2,105 cases or complaints received probably as a result of the expediting of the summary preliminary process; that 1,190 cases had been disposed of by the Military Tribunals, of which 86 had been returned to complainants for lack of jurisdiction or cause of action, 62 referred or returned to civil authorities for lack of jurisdiction, 61 dismissed after preliminary investigation, and 115 terminated by the Military Tribunal Staff. In the same period 911 more cases remained pending, not including the 2,000 applications for amnesty, and of these 169 had been listed for preliminary investigation by the Prosecution Staff of the Military Tribunals. The Military Tribunals had sentenced an additional 32 civilians to death. Other comparative figures for the period are not available.

It must be remembered, however, as stated above, that there are still approximately 4,000 detainees being held by the military. Of these, approximately 1,400 are so-called subversive detainees, i.e. political activists. As many as 250 of these have been held for long periods of time up to five years and many have never been charged at all.

The Independence of the Judiciary

The day after he declared Martial Law, the President issued Letter of Instruction No. 11, which required all officers of the National Government who are presidential appointees, except the Chief Justice and the Associate Justices of the Supreme Court (but not lower court judges), the Auditor General, and the Chairman and Members of the Commission on Elections, to submit their resignations not later than October 15, 1972.

This move was ostensibly designed to facilitate the reorganization of the Government. Subsequent Letters of Instruction directed Heads of Executive Departments and local governments to expedite disciplinary action against officials and employees who face charges or who are "notoriously undesirable"; those who refused to hand in their resignations were considered notoriously undesirable.

The inescapable conclusion is that many independent-minded judges and other officers of executive appointment were thereby dismissed from service.

Section 9 of the Transitory Provisions of the new Constitution provided that

all officials whose appointments are by this Constitution vested in the Prime Minister shall vacate their respective offices upon the appointment and qualification of their successors.

This rendered the incumbency of the Chief Justice and the Associate Justices of the Supreme Court dependent on the incumbent President's whim, since he had assumed the office of Prime Minister.

The possible effect of these restraints on the judiciary is obvious.

VIII. Conclusions

1. Although many have questioned the necessity for Martial Law in September 1972, we accept, in the light of the findings of the Supreme Court of the Philippines, that the Proclamation was a proper exercise of the presidential power in the circumstances existing at that time.

2. We received no convincing evidence that the continuation of Martial Law, and the almost total suspension of civil and political liberties which it entails, is still justified over four years after its introduction.

3. Accordingly, we are forced to conclude that the present Government is now employing the power granted to it by the Constitution *not* primarily to protect the nation from "invasion, insurrection, or rebellion or imminent danger thereof, when the public safety requires it . . ." but rather to perpetuate the personal power of the President and his collaborators and to increase the power of the military to control Philippine society.

4. The President has on no less than four occasions submitted the question of the continuation of Martial Law to the people by referenda, which have resulted in apparent approval of its policy. We conclude, however, that the conditions and circumstances under which they were held were such that they cannot be considered a true expression of the will of the people. Under these circumstances, the results of these referenda must be substantially discounted in the face of violation of Articles XV and XVI of the 1973 Constitution.

5. The referendum of October 16, 1976, marked the end of democracy in the Philippines by giving the President the power to suspend the legislature and to rule indefinitely by decree.

6. The Philippine Government, using military authority, has denied to the Philippine people their basic rights under the Constitutions of 1935 and 1973 in that it

(a) has denied to the people of the Philippines their basic right freely to elect their own governmental representatives in the manner provided by their own Constitution;

(b) has effectively abolished the right of habeas corpus;

(c) has abolished the freedom of the press by seizing and closing down all newspapers, periodicals, and magazines which in any way, directly or indirectly, oppose the policies of the government.

(d) has seriously inhibited freedom of speech and information by arresting and detaining many of those who oppose the Government. Although a few Opposition leaders are allowed to continue to appear in public, they do not

have access to the media. They are allowed this limited freedom of operation for public relations purposes and because they present no serious threat to the rule of the Executive.

(e) has effectively abolished the right of the laborer to strike for better wages and working conditions.

(f) has not yet taken effective steps to prevent the use of torture by security units of the Philippine military establishment when interrogating suspects. These interrogations, usually held at the private offices of the security units themselves or at "safehouses" (private homes taken over by security officers for interrogation purposes), last for days and even months. The methods of torture employed within the last eighteen months include water treatment, electric shock, "boxing," prolonged isolation, threats, and in the case of women, carried out while naked under humiliating and degrading conditions. These cases occurred in the Greater Manila area. We found no evidence of torture outside Manila in those areas we had time to visit, Cebu, Davao City, and Tagum.

(g) has detained without charge or trial several hundred detainees, some for as long as five years. The Government admits that it still has 4,000 detainees, of which 1,400 are so-called "subversive detainees." It is estimated that approximately 250 of these have been held for many years and that the balance is a floating population which changes from time to time depending on the frequency of arrests and releases.

It is to be noted that there is no legislation under Martial Law which authorizes detention without trial. However, by the simple expedient of not bringing cases to trial suspects, whether or not charged, have been and still are being detained in this way for years, and the courts have done nothing to prevent this process or expedite the cases.

(h) has in this way used the device of "preliminary investigation" to impose prolonged detention without trial. Many detainees have been in "preliminary detention" for years and have not been charged at all.

(i) has severely limited the Filipino's right to leave and to return to his country.

7. The Government has severely undermined the independence of the judiciary in that it has demanded and received the written resignations of all lower court judges and it has taken the power to remove all the Supreme Court judges "by appointing their successors."

8. The Government has attempted to solve serious social problems in the fields of land reform, health, education and literacy, and housing. It has initiated programs in each field to overcome the many inherited problems which are only intensified by the passage of time and the growth of the population. We conclude, however, that insofar as such a large proportion of the national wealth is concentrated in so few hands, and inasmuch as the Government has placed such overwhelming priority on strengthening the

military sector, the rate of progress in the social and economic sectors has necessarily been slower than many hoped at the time of the imposition of Martial Law.

IX. Recommendations

1. The Philippine Government is respectfully urged, in order to ensure the better protection of the rights of its citizens, to give consideration at an early date to

- terminating Martial Law, at least over the greater part of the country;
- granting an amnesty to all detainees suspected of subversive or seditious activities who are not charged with complicity in any act of violence;
- terminating the power of military courts to try civilians and transferring all pending cases to the civilian courts;
- calling the Interim National Assembly followed by the general elections provided for in the 1973 Constitution.

2. (a) Institute effective supervisory procedures to ensure that the use of torture by Military Security Officers when interrogating suspects ceases.

(b) Discontinue the use of safehouses as temporary detention centers and transfer all arrested persons, within twenty-four hours of arrest, to prisons or military prison camps, from which they should not thereafter be removed for purposes of interrogation.

(c) Accelerate all cases now held by the military authorities by completing preliminary charges against all detainees within three months. All detainees not charged within that time should be released.

(d) Bring into effect Article XII of the Constitution providing for an ombudsman. A well-respected jurist, not in the employ of the Government, should be appointed to this office.

(e) Further efforts should be made to enhance the economic, social, and cultural rights of Philippine citizens in the areas of land reform, housing, education, etc.

(f) The ban on the right to strike should be terminated without delay.

(g) Freedom of the press and association should be restored and the policy of expelling journalists and priests should be discontinued.

(h) The independence of the judiciary should be restored by proper assurances, the return of all letters of resignation of judges, and the enactment of legislation guaranteeing the life appointment of Justices of the Supreme Court.

(i) Finally, a commission should be appointed to study and recommend how the state of Martial Law, already in existence for nearly five years, is to be dismantled and the state returned to a liberal democracy as provided for in both the 1935 and the 1973 Constitution.

Respectfully submitted,

William J. Butler
John P. Humphrey
G. E. Bisson

Appendix A

Administration of Justice under Martial Law

by Roberto Concepción

Preface

1. This paper has been written upon the suggestion of the Secretary-General of the International Commission of Jurists,* who urged the preparation of a fairly short paper, summarizing the principal steps taken under martial law affecting basic rights and the extent to which such matters as access to the courts, the independence of the judiciary and the administration of justice have been affected.

2. In the very nature of things, the preparation of the desired summary cannot be limited to the examination of official documents, which are no more than part of the steps taken under a martial law regime. Many other things are done or happen under such regime, requiring, on the part of the chronicler, an assessment of conditions, situations or events demanding knowledge and grasp of relevant facts and a reasonable degree of objectivity, which, at best, is difficult to attain.

3. The task is made harder by several factors, among others: (a) under martial law, only such events are published as the authorities deem fit to make known to the masses; (b) public announcements or news items are generally couched in a language affected by the viewpoint of, if not favorable to, the administration; and (c) the relator may have, and often has, his own biases and prejudices, the extent of which—even if he is forewarned about them—is not easy for him to ascertain with precision.

4. But these are risks that cannot be avoided by those who study social and legal problems and try to find means to solve them or to allay the evils resulting from them or provide remedies.

5. Having in mind the foregoing circumstances, such materials have been incorporated into this paper as are believed to have a bearing on the administration of justice under martial law, particularly insofar as they affect human rights and may enlighten us in the appraisal thereof and of the means to strengthen the Rule of Law and forestall or minimize the harmful effects of martial law, as well as to foster an orderly restoration of normal processes.

*This paper was prepared as a discussion paper for the Twenty-fifth Anniversary Meeting of the International Commission of Jurists, held in Vienna in April 1977.

Proclamation and Incidents of Martial Law

6. On September 21, 1972, the entire Philippines was placed under martial law (Presidential Proclamation—hereafter referred to as P.P.—No. 1081) although this was not made public until two days later.

7. At the same time—

(a) The President assumed the power to “govern the nation and direct the operation of the entire government” (General Order No. 1—hereafter referred to as G.O.—September 22, 1972).

(b) The Armed Forces of the Philippines began to arrest and detain, until otherwise directed, individuals named in several lists—not published—and other persons who may commit or have committed enumerated offenses (G.O. No. 2. See also G.O. Nos. 2-A, 2-B, 2-C and 2-D, September 26, October 25 and 27, and November 7, 1972).

(c) All offices of the executive and judicial departments were directed to continue to function with their present officers and personnel, in accordance with existing laws, and the Judiciary to try and to decide all cases pursuant to such laws, “except cases involving the validity, legality or constitutionality” of the proclamation of martial law, or of “decrees, orders or acts” issued or performed in accordance therewith, or of any “rules, orders or acts promulgated or performed” pursuant to decrees, orders, rules and regulations issued and promulgated in accordance with the said proclamation, as well as those involving specified crimes (G.O. No. 3, September 22, 1972).

(d) The possession of firearms, except by enumerated classes of persons and under specified conditions, was a ground for indefinite detention, aside from being punished severely (G.O. No. 6. See also G.O. Nos. 7 and 7-A, September 23 and 30, 1972).

(e) The Government

(1) took over and controlled: (a) the press, radio and television facilities and other media of communication (Letter of Instructions—hereafter referred to as L.I.—No. 1, September 22, 1972) and (b) all Philippine aircraft and watercraft (L.I. No. 3, September 22, 1972);

(2) controlled the movement of non-military foreign aircraft and watercraft (L.I. No. 3, September 22, 1972);

(3) refrained from (a) issuing travel papers, or police, immigration or tax clearances to Filipinos, except in specified cases (L.I. Nos. 4, 5 and 6, September 22, 1972); or (b) selling or making available to Filipinos any amount of foreign exchange, subject to certain exceptions (L.I. No. 7, September 22, 1972).

(f) All officers of the National Government who are presidential appointees (hence, *all judges*), except the Chief Justice and the Associate Justices of the Supreme Court, the Auditor General, and the Chairman and Members of the Commission on Elections, were required to submit their resignations, not later

than October 15, 1972, in order to facilitate the reorganization of the Government (L.I. No. 11, September 22, 1972). Heads of the Executive Departments and local governments were also directed to expedite disciplinary action against officials and employees who face charges or are notoriously undesirable (L.I. Nos. 12 [undated], 14, 14-A, 14-B, September 29, October 5, November 9, 1972). Those who failed to turn in their resignations, as required, were considered notoriously undesirable. In fact, those who did not file their resignations, as well as many of those who submitted theirs, were separated from the service. There is the impression that a number of judges thus, in effect, dismissed were independent-minded or were not on good terms with officers of the Department of Justice, which then had administrative supervision over judges of inferior courts.

8. Thousands of persons (their number is estimated from 4,000 to 8,000) including members of Congress and of the Constitutional Convention of 1971—hereafter referred to as Con-Con (which had been functioning since June 1, 1971)—were arrested and detained without warrant and without charges. Most of them were subsequently released, a good many several months or years later.

Approval of the Proposed Constitution

9. By September 22, 1972, i.e. after functioning for almost sixteen months, the Con-Con had barely finished discussing and reaching a consensus on a few features of its proposed Constitution. One of its main aspects, then still unsettled, was whether it would retain a presidential form or adopt the parliamentary system. Upon proclamation of martial law, the proceedings in the Con-Con were extraordinarily speeded up. Two months and a week later—on November 29, 1972—it approved the draft of a proposed Constitution, incorporating the parliamentary system, with an Article XVII, entitled “Transitory Provisions,” to the effect, among others, that:

(1) Upon ratification of the Constitution, there shall be an *interim* National Assembly which shall exist until the members of the regular National Assembly shall have been elected and shall have assumed office, following an election called by said *interim* Assembly (Sec. 1).

(2) The latter shall consist of the incumbent President and Vice-President of the Philippines, the President of the 1971 Con-Con, the members of the Senate and House of Representatives who, within thirty days after the ratification of the Constitution, shall express in writing their option to serve in the *interim* Assembly, and the Con-Con members who voted for the said Article XVII of the proposed Constitution (Sec. 2).

(3) The incumbent President of the Philippines shall initially convene the *interim* Assembly and preside over its sessions until the *interim* Speaker shall have been elected (Sec. 3, par. 1).

(4) The incumbent President of the Philippines shall exercise his powers

under the old Constitution and the powers vested in the President and the Prime Minister under the new Constitution, “until he calls upon the *interim* National Assembly to elect the *interim* President and the *interim* Prime Minister” (Sec. 3, par. 1).

(5) “All proclamations, orders, decrees, instructions and acts promulgated, issued or done by the incumbent President shall be part of the law of the land, and shall remain valid, legal, binding and effective even after lifting of Martial Law or the ratification of this Constitution, unless modified, revoked or superseded by subsequent proclamations, orders, decrees, instructions or other acts of the incumbent President, or unless expressly and explicitly modified or repealed by the regular National Assembly” (Sec. 3, par. 2).

(6) “All officials and employees in the existing Government shall continue in office until otherwise provided by law or decreed by the incumbent President . . . but all officials whose appointments are by this Constitution vested in the Prime Minister shall vacate their respective offices upon the appointment and qualification of their successors” (Sec. 9). (Under this provision, all incumbent judges, including the Chief Justice and the Associate Justices of the Supreme Court, could be replaced at any time by the appointment and qualification of their successors. Their status has, in fact, been characterized as that of “casuals,” a class of employees who have no term and may be separated from the service at will. Such status is bolstered up by the next section.)

(7) “The incumbent members of the Judiciary may continue in office until they reach the age of seventy years, *unless sooner replaced in accordance with the preceding section hereof*” (Sec. 10).

(8) “The rights and privileges granted to citizens of the U.S. or to corporations or associations owned or controlled by such citizens under the Ordinance appended to the nineteen hundred and thirty-five Constitution shall automatically terminate on the third day of July, nineteen hundred and seventy-four. Titles to private lands acquired by such persons before such date shall be valid *as against private persons only*” (Sec. 11).

(9) “. . . When the national interest so requires the incumbent President of the Philippines or the *interim* National Assembly may review all contracts, concessions, permits or other forms of privileges for the exploration, development, exploitation or utilisation of natural resources entered into, granted, issued or acquired before the ratification of the Constitution” (Sec. 12).

10. Pursuant to the proposed Constitution, despite the provisions of par. 1, Sec. 14, of Article VIII—requiring the vote of “a majority of all the members of the National Assembly” for a treaty to be valid and effective—“the Prime Minister may enter into international treaties or agreements as the national welfare and interest may require” (Sec. 15, Art. XIV).

"Ratification" of the Proposed Constitution

11. Some quarters believe that, apart from means available under martial law, one of the most effective measures used to secure Con-Con approval of the proposed Constitution was Section 2 of its Transitory Provisions, including, among the members of the *interim* National Assembly, the Con-Con delegates who voted affirmatively for the said Transitory Provisions and the members of Congress who shall opt to serve in said *interim* Assembly, as provided for in said Section 2.

12. On December 1, 1972, a copy of the proposed Constitution was delivered to the President, who forthwith ordered the release of the detained Con-Con delegates and issued Presidential Decree—hereafter referred to as P.D.—No. 73, providing that the proposed Constitution "shall be submitted to the people for ratification or rejection at a plebiscite to be held on January 15, 1973," under the supervision of the Commission on Elections, in accordance with the provisions of the decree, and, insofar as not inconsistent therewith, with those of the Election Code of 1971, as well as appropriating funds therefore. On the same date, G.O. No. 17 allowed and encouraged the people "to freely discuss and debate the proposed Constitution before the plebiscite."

13. Thereupon, there were public discussions and criticisms of the proposed Constitution, especially of its aforementioned Transitory Provisions.

14. From December 7 to December 16, 1972, several cases (G.R. Nos. L-35925, 35929, 35940, 35941, 35942, 35948, 35953, 35965 and 35979)—hereafter referred to as Plebiscite Cases—were filed with the Supreme Court, to restrain the Commission on Elections and some officers of the Government from holding the plebiscite.

15. On December 17, 1972, the President issued an order temporarily suspending the effects of P.D. No. 1081, for the purpose of free and open debate on the proposed Constitution, but the order was, on January 7, 1973, suspended by G.O. No. 20, which likewise "postponed until further notice" the "plebiscite scheduled to be held on January 15, 1973." Prior thereto, or on January 6, 1973, P.D. No. 90 prohibited and punished as a crime "rumor-mongering and spreading of false information."

16. Meanwhile, on December 18 and 19, 1972, the Plebiscite Cases were heard before the Supreme Court.

17. On December 31, 1972, P.D. No. 86 created in each *barrio*, district or ward a Citizens Assembly (later referred to, also, as "*Barangays*")—consisting of residents of the *barrio*, district or ward who are citizens of the Philippines, fifteen years of age or over (the voting age under the 1935 Constitution is twenty-one and, under the proposed Constitution, eighteen)—"to consider matters of local or national concern." Said "matters" were seemingly set forth in P.D. Nos. 86-A and 86-B, but *no* copies of these decrees were available for general circulation.

18. From January 2 to January 11, 1973, there were news items in the dailies to the effect that, instead of the plebiscite, there would be a referendum "in the nature of a loose consultation with the people" on some important questions.

19. On January 12, 1973, the petitioners in one of the Plebiscite Cases (No. L-35948) filed a motion praying that the case be decided "as soon as possible, preferably not later than January 15, 1973," because, *inter alia*:

(1) It had been announced that among the questions the Citizens Assemblies would be asked were: "Do you approve of the new Constitution?" and "Do you still want a plebiscite to be called to ratify the new Constitution?" as well as "Do you think that Congress should meet again in regular session?" or "Do you like Congress again to hold sessions?"

(2) Annexed to these questions were suggested answers, among which were: "The vote of the Citizens Assemblies should be considered the plebiscite on the new Constitution"; "If the Citizens Assemblies approve of the new Constitution, then the new Constitution should be deemed ratified"; "We do not want the Ad Interim Assembly to be convoked. Or, if it is to be convoked at all, it should not be done until after at least seven years from the approval of the new Constitution by the Citizens Assemblies."

(3) The petitioners feared that "there would be an attempt to bypass and short-circuit the Supreme Court," before which the validity of the plebiscite on the proposed Constitution is now pending, and that "if the answer to the questions above referred to were reported" the Court and the nation would be "confronted with a *fait accompli*"—consisting of the supposed approval of the Constitution by the people.

20. On the same date, a similar prayer was filed by the petitioners in L-35949.

21. Before noon, on January 15, 1973, the petitioners in L-35948 filed a supplemental motion for an order to restrain the respondents and other specified officials from "collecting, certifying and reporting the alleged results of the so-called Citizens Assemblies referendum," upon the ground that the proceedings before said Assemblies "are illegal, null and void," because, *inter alia*: (1) they are not in conformity with the Constitution and the existing Election Code; (2) for lack of time and other circumstances stated in the supplemental motion, the Assemblies could not possibly be organized, and many were not organized, before the referendum; and (3) the submission of the proposed Constitution to the Citizens Assemblies was not made known to the public until January 11, 1973, at 4:00 P.M.

22. The motion was set for hearing on January 17, 1973, at 9:30 A.M. While the motion was being heard the Secretary of Justice delivered to the Court a copy of a Presidential Proclamation, No. 1102, bearing the same date, stating that an overwhelming majority of those who had participated in the referendum had answered affirmatively the question: "Do you approve of the new Constitution?" and negatively the question: "Do you still want a plebiscite to

be called to ratify the new Constitution?" and that "the referendum results show" that the Citizens Assemblies have "strongly recommended that the new Constitution should already be deemed ratified," and, accordingly, certifying and proclaiming that the Constitution proposed by the Con-Con had "been ratified . . . and has thereby come into effect."

23. On January 22, 1973, the Plebiscite Cases were dismissed by a divided Court, the majority being of the opinion that P.P. No. 1102 had mooted the issue in the cases—whether or not the plebiscite or referendum could validly be held and should be restrained.

The "Ratification Cases"

24. Between January 20 and 23, 1973, other cases—hereafter referred to as the Ratification Cases (R.G. Nos. L-36142, 36164, 36165, 36236 and 36283)—were filed against members of the Cabinet and other ranking officers of the Government to restrain them from implementing the provisions of the proposed Constitution, allegedly ratified on January 15, 1973, upon the ground that a referendum is not the constitutional and legal means to ratify the proposed "Constitution," not only because, *inter alia*, freedom was curtailed by martial law, but, also, because a referendum is not in accordance with the Constitution.

25. Without giving a due hearing to these cases, they were dismissed by Resolution dated March 31, 1973. Six members of the Court opined that the referendum did *not* satisfy the constitutional requirements for the ratification of a constitution. Two of them added, however, that—although "the Citizens Assemblies could not have understood the referendum to be for the ratification of the Constitution, but only for the expression of their views on a consultative basis"—the action of the Executive in interpreting the result of the referendum, and in issuing P.P. No. 1102 in consequence thereof, was a political act not subject to judicial review, and that the cases should, therefore, be dismissed. Four other members were of the view that the Court could not pass upon the validity of P.P. No. 1102, the same being, in their opinion, a political question, and, accordingly, voted to dismiss the cases. Hence, the said resolution.

Investigations by the Armed Forces

26. In the meantime, the Chief of Staff of the Armed Forces had been authorized by G.O. No. 8 (September 27, 1972) to create military tribunals to try and decide cases of military personnel and such other cases as may be assigned to them, some classes of which were specified in G.O. Nos. 12 and 12-A (September 30 and October 2, 1972). Soon after, the Rules governing the creation, composition, jurisdiction, procedure and other matters relevant to military tribunals were prescribed in G.O. No. 39 (November 7, 1972). Pursu-

ant to these Rules, military tribunals shall try, not only cases of military personnel, but, also, such cases *involving civilians* as may be referred thereto by the Secretary of National Defense (Rule 2, 6(1)) and, during a summary investigation to be conducted before any charge is referred for trial, "the accused has no right to counsel" (Rule 4a(1)).

27. Soon after, the Armed Forces of the Philippines established a "Complaints, Information and Public Assistance Group" (CIPAG), which was subsequently known as Integrated Public Assistance Office (IPAO), and still later as Office of Civil Relations (OCR), one of the main objectives of which was "to resolve complaints" of a private nature "through arbitration/conciliation" and "to instill in the people's mind greater respect for and faith" in the Armed Forces.

28. The Bar objected to this upon the ground, among others, that it would unduly enlarge the intervention of the Armed Forces in *purely civil* matters; tend to undermine the people's faith in the administration of justice by the civil organs of the State; render civil courts useless, because the fear of incurring the animosity of the Armed Forces is bound to constrain the disputing parties to accept such terms or suggestions as may be made by the aforementioned agency.

29. Subsequently, the Bar invited the attention of the Armed Forces to the following:

(1) The practice adopted by arbitration personnel, especially outside the capital, (a) of issuing "invitations" or subpoenas couched in peremptory terms, which were served by members of the Armed Forces without any indication of the claims or charges formulated against the party invited, or of the identity of the complainant; (b) of excluding counsel for the party summoned to help their clients, despite the explicit constitutional provision to the effect that "any person under investigation for the commission of an offense shall have the right to remain silent and to counsel and to be informed of such right" (Art. IV, Sec. 20); (c) of resorting to improper means to secure acceptance of the terms proposed by the arbitrators; and (d) of attempts to *interfere with cases pending before, or already decided by, civil courts*;

(2) The need of enlightening arbitrators, especially noncommissioned officers, on the procedure to be allowed in arbitration proceedings and of warning them against the improper practices mentioned above;

(3) The circumstance that local military authorities *profess ignorance* of the procedure prescribed, in P.D. Nos. 77 and 328 (December 6, 1972, and October 31, 1973), for preliminary investigations conducted by military personnel, and that the contents of P.D. No. 328—like a number of other important decrees—had not been made known to the public, for which reason permission was requested to publish the same, which was granted;

(4) The fact that Armed Forces intervention appears imbued with a coercive character; that in a regime of martial law, an Armed Force summons or citation, even if couched in terms of invitation, invariably conjures up in the

mind of an ordinary civilian the specter of possible detention (as has happened in several instances); that this apprehension is aggravated by the practice of OCR personnel of stressing that lawyers' intervention is neither needed nor wanted; that, to drive home the point, they threaten the lawyers themselves with arrest or detention, if they insist on assisting their clients; and that the inevitable outcome has been that the assent given to the settlement proposed by the OCR officers is not really voluntary, but induced by fear;

(5) Despite a joint circular of the Departments of Justice and National Defense calling the attention of all officers, civilian and military, conducting criminal investigations to the constitutional right of persons under investigation to remain silent and to counsel and to be informed of such right, and directing that the same be implemented, lawyers seeking to render legal aid to detainees are often met by investigators who not only disregard the circular, claiming ignorance of it, but even go to the extent of *threatening the lawyers* with arrest and detention if they insist on the observance of the circular;

(6) Some lawyers who had been charged by interested parties with misdeeds, real or imagined, were arrested and held in detention for weeks or months *before they were actually interrogated*, with the result that, when finally cleared, their clientele has been lost. Hence, the necessity of instructing investigators to refrain from detaining practicing lawyers without informing them of the charges against them and of *obtaining their side* of the case before confining them in military stockades or detention camps.

Access to Courts of Justice

30. As intimated earlier in this paper, the proclamation of martial law was coupled with other measures having the effect, among others, of substantially restricting the authority of civil courts.

31. By General Orders of September, October and November 1972, numerous offenses were withdrawn from the jurisdiction of the civil courts. A full list of the classes of cases made subject to the exclusive military jurisdiction, together with later additions to the list, will be found in the Addendum to this paper. Subsequently these were reduced in number, but still constituted a serious encroachment upon the jurisdiction of the civil courts.

32. Thus, on October 4, 1974, the exclusive jurisdiction of military tribunals was limited to the following:

1. All offenses committed by military personnel of the Armed Forces of the Philippines while in the active service: Provided, That offenses committed by military personnel while in the active service, shall continue to be heard and tried by military tribunals even after their discharge or separation from the service: Provided, further, That whenever there are two or more accused at least one of whom is a military personnel, military tribunals shall have jurisdiction of the offense if it arose out of any act or omission done in the performance of official duty by the accused military personnel. Whenever it is necessary to determine

whether an alleged offense arose out of an act or omission done in the performance of official duty, a certificate issued by the Secretary of National Defense will be delivered to the city or provincial fiscal concerned and this certificate shall be binding upon all civil authorities.

2. Crimes against national security and the law of nations as defined and penalised in Title I, Book II of the Revised Penal Code.

3. Violations of the Anti-Subversion Law as defined and penalised in Republic Act No. 1700, as amended.

4. Espionage (Art. 117, Revised Penal Code; Commonwealth Act No. 616).

5. Crimes against public order as defined and penalised under the Revised Penal Code, as amended, namely:

- a. Rebellion or insurrection (Art. 134)

- b. Conspiracy and proposal to commit rebellion or insurrection (Art. 136)

- c. Disloyalty of public officers or employees (Art. 137)

- d. Inciting to rebellion or insurrection (Art. 138)

- e. Sedition (Art. 139)

- f. Conspiracy to commit sedition (Art. 141)

- g. Inciting to sedition (Art. 142)

- h. Illegal assemblies (Art. 146)

- i. Illegal association (Art. 147).

6. Violations of the laws on firearms and explosives found in the Revised Administrative Code, as amended, and General Orders Nos. 6 and 7, as amended, in relation to Presidential Decree No. 9, including crimes committed with the use of illegally possessed firearms and explosives.

7. Usurpation of military authority, rank, title and illegal use of military uniforms or insignia, as defined under Articles 177 and 179 of the Revised Penal Code, as amended, and Republic Act No. 493.

8. Crimes against personal liberty as defined and penalised in Articles 267 and 268 of the Revised Penal Code.

9. Rumor-mongering and spreading false information as defined and penalised under Presidential Decree No. 90.

10. Violations of those decrees or orders where exclusive jurisdiction is specifically conferred upon military tribunals by such decrees or orders.

33. Similarly, P.D. No. 605 (December 12, 1974) withheld from civil courts the jurisdiction to issue injunctions or restraining orders in certain cases related to the disposition, exploitation, utilisation, exploration and/or development of our natural resources.

34. Likewise, withdrawn from courts of justice is the authority to hear and decide cases of "all workers, whether agricultural or non-agricultural," particularly: (1) those involving unfair labor practices; (2) unresolved issues in collective bargaining, including those involving wages, hours of work and other terms and conditions of employment; (3) all money claims of workers, involving non-payment or underpayment of wages, overtime or premium compensation, maternity or service incentive leave, separation pay and other money claims arising from employee-employer relations; (4) cases involving household services; and (5) all other cases arising from employer-employee relations, unless otherwise provided in the Labour Code of the Philippines (P.D. No. 442, as amended by P.D. Nos. 570-A, 626, 643, 850 and 865).

35. These cases have been placed within the exclusive jurisdiction of Labour

Arbiters, compulsory arbitrators and voluntary arbitrators, whose decisions are now reviewable by a National Labour Relations Commission, the decisions of which are appealable to the Secretary of Labour. The latter's decisions may, in turn, be appealed to the President, "subject to such conditions or limitations as the President may direct." (See Arts. 217 and 223, Labour Code of the Philippines.)

36. Many, if not most, of the foregoing cases were formerly within the jurisdiction of the Court of Industrial Relations, the decisions of which were appealable to the Supreme Court. The Court of Industrial Relations has been abolished. Insofar as inconsistent with said P.D. No. 442, the authority of the Court of Agrarian Relations as regards disputes involving agricultural workers has also been affected *pro tanto*.

37. Apart from considerations of "national security" the reason generally adduced in support of these measures has been the need to help unclog the dockets of civil courts, which have been consistently characterized as being very technical and slow. It may not be amiss to add, however, that, insofar as the number of cases disposed of is concerned, the performance of the military tribunals can hardly be considered impressive.

38. On the other hand, the Commission on Elections inquired from the Supreme Court, before October 16, 1976, whether or not judges and court personnel could participate and take sides in public discussions and debates on the referendum-plebiscite questions to be submitted to the electorate on October 16, 1976. The Court, with several members dissenting, resolved the query in the affirmative.

39. The aforementioned query suggested the intent to avail of the services of judges to bolster up the campaign for approval of the proposed amendments to the Constitution, although they were not made by the organs prescribed in the constitution. It likewise reflected the reluctance of members of the Bench to be involved in issues having some political complexion. However, the Court's decision made it difficult for average members of the Bench to excuse themselves from expressing their views on these issues. What is more, the martial law in force, and the unbroken chain of decisions in favor of the Government in cases assailing the validity of its acts under martial law, as well as other related events, made it even harder for judges to speak freely and take a position other than that of the administration.

40. Needless to say, these circumstances do not tend to promote the administration of justice. Neither do they enhance either the image of the judiciary or the independence of its members.

Schools, Colleges and Universities

41. Upon proclamation of martial law all educational institutions were ordered to be closed.

42. Weeks later, they were allowed to resume operation upon compliance

with certain guidelines, requiring the taking of security measures limiting entry into school premises to "bona-fide students," faculty members, employees, and persons who have legitimate business with the school administration, as well as requiring the screening of packages, cases or other containers sought to be brought inside said premises; directing the removal of members of the faculty or staff and the dropping of students who are officers or members of Communist-front organizations, or charged with violation of existing laws or of rules and regulations of the Department of Education; suspending the organization and operation of student governments or councils "and other student associations as well as the publication of student organs in whatever form"; and prohibiting strikes, rallies, demonstrations and other concerted activities" (Department of Education Order No. 30, October 13, 1972).

43. School heads and other administration officials were, moreover, required—under penalty of immediate closure of the institution—to assume full responsibility for acts of violence and any violation of the proclamation of martial law and of any order, decree and instruction issued in consequence thereof.

44. Several days later (October 18, 1972) the Department of Education issued guidelines for teaching in colleges and universities, which prohibited, *inter alia*, "agitation-oriented discussion of political issues, particularly [the proclamation of martial law] and the various orders, decrees and instructions issued pursuant thereto."

45. On December 7, 1976, the establishment and operation of student organizations was authorized (Department Order No. 63, s. 1976), provided that their activities are confined to economic, social and cultural areas, and are approved by the school head or his representative upon compliance with certain rules and subject to the supervisory and regulatory authority of the Secretary of Education.

Presidential Legislation under Martial Law and the 1975 Referendum

46. Since the proclamation of martial law, there have been issued many Presidential Decrees, General Orders and Letters of Instruction, apart from executive orders and implementing rules or regulations. The number has increased considerably since January 15, 1973, the date of "ratification" of the proposed Constitution drafted by the 1971 Con-Con.

47. Moreover, P.P. No. 1103, dated January 22, 1973, invoking the result of the referendum on January 15, 1973, suspended "the convening of the interim National Assembly provided for in Article XVII (Transitory Provisions) of the new Constitution . . ." Accordingly, Congress was not allowed to meet and its members were barred by the Armed Forces, which had taken possession and control of the Legislative Building, from entering the same to discharge their official duties.

48. From September 21, 1972, to March 3, 1977, there have been over 1,100

Presidential Decrees (or about 2 decrees every 3 days) including several codes (the Child Welfare Code, P.D. No. 603; the Labour Code, P.D. Nos. 442, 570-A, 608 and 643; the Code of Agrarian Reforms, P.D. Nos. 27, 251, 338, 435, 444, and 462), 500 Letters of Instructions, 500 Presidential Proclamations and 60 General Orders, aside from scores of executive orders and implementing regulations. The difficulties of the people and even of the Bar in ascertaining the proper law at a particular time were compounded by the fact that some important pieces of legislation have been classified as "not for general circulation" and were not published, and that some offices and officials of the government, including law-enforcing agencies, claim to be unaware of them.

49. On December 31, 1974, P.P. No. 1366 (amended by P.D. No. 1366-A) provided for the holding of a National Referendum on January 30, 1975, which was later postponed to February 27, 1975. On January 4, 1975, P.D. No. 629 (amended by P.D. No. 629-A) prescribed the procedure for holding the referendum. The questions to be voted upon in said referendum, pursuant to P.D. No. 637-A (January 17, 1975), consisted of two classes. The first, to be submitted to the people in the Greater Manila area, was composed of two parts, one referring to the form of government or governments in the area, and the other to whether the people approved of the manner in which the presidential powers under martial law were exercised, and whether they wanted the President to continue exercising such powers. The second, to be used outside Greater Manila, reproduced the aforesaid questions on the manner of enforcement of martial law and the continuation thereof, and inquired whether, after December 31, 1975, the local officials shall be appointed by the Chief Executive or should be elected.

50. For a number of months before this, there had been widespread rumors and news items, as well as other events, consistently and clearly indicating a move to convert the city of Manila and the cities and municipalities surrounding it into a single political subdivision to be headed by a prominent personality in the community.

51. The validity of P.P. Nos. 1366 and 1366-A and P.D. Nos. 629, 629-A, 637 and 637-A was, *inter alia*, assailed in R.G. No. L-40004, *Aquino et al. vs. Commission on Elections*. In a decision promulgated on January 31, 1975, a majority of the members of the Supreme Court opined that Sec. 3 of Art. XVII of the new Constitution upheld the President's authority to legislate and, hence, to issue the contested proclamations and decrees.

52. As generally anticipated, it was announced, thereafter, that the result of the referendum favored the establishment of Metropolitan Manila, the manner in which martial law powers had been exercised, the continuation of martial law and the appointment by the Chief Executive, instead of election, of local officials.

53. Several months later representatives of *Barangays* or Citizens Assemblies (Sanggunians) passed a resolution unanimously recommending the ap-

pointment of the aforementioned personality as Governor of Metropolitan Manila. Subsequently, the appointment thus recommended was made.

The 1976 Referendum-Plebiscite

54. On October 16, 1976, two questions were submitted in a "referendum-plebiscite" then held (P.D. Nos. 991 and 1033, September 2 and 22, 1976). The first was whether or not the people wanted "Martial Law to be continued." The second called for a single affirmative or negative answer to the following set of proposed amendments to the new Constitution, namely:

1. There shall be, in lieu of the interim National Assembly, an interim Batasang Pambansa. Members of the interim Batasang Pambansa which shall not be more than 120, unless otherwise provided by law, shall include the incumbent President of the Philippines, representatives elected from the different regions of the nation, those who shall not be less than eighteen years of age elected by their respective sectors, and those chosen by the incumbent President from the members of the Cabinet. Regional representatives shall be apportioned among the regions in accordance with the number of their respective inhabitants and on the basis of a uniform and progressive ratio while the sectors shall be determined by law. The number of representatives from each region or sector and the manner of their election shall be prescribed and regulated by law.

2. The interim Batasang Pambansa shall have the same powers and its members shall have the same functions, responsibilities, rights, privileges, and disqualifications as the interim National Assembly and the regular National Assembly and the members thereof. However, it shall not exercise the power provided in Article VIII, Section 14(1) of the Constitution.

3. The incumbent President of the Philippines shall, within 30 days from the election and selection of the members, convene the interim Batasang Pambansa and preside over its sessions until the Speaker shall have been elected. The incumbent President of the Philippines shall be the Prime Minister and he shall continue to exercise all his powers even after the interim Batasang Pambansa is organized and ready to discharge its functions, and likewise he shall continue to exercise his powers and prerogatives under the nineteen hundred and thirty-five Constitution and the powers vested in the President and the Prime Minister under this Constitution.

4. The President (Prime Minister) and his Cabinet shall exercise all the powers and functions, and discharge the responsibilities of the regular President (Prime Minister) and his Cabinet, and shall be subject only to such disqualifications as the President (Prime Minister) may prescribe. The President (Prime Minister) if he so desires may appoint a Deputy Prime Minister or as many Deputy Prime Ministers as he may deem necessary.

5. The incumbent President shall continue to exercise legislative powers until martial law shall have been lifted.

6. Whenever in the judgment of the President (Prime Minister) there exists a grave emergency or a threat or imminence thereof, or whenever the interim Batasang Pambansa or the regular National Assembly fails or is unable to act adequately on any matter for any reason that in his judgment requires immediate action, he may, in order to meet the exigency, issue the necessary decrees, orders

or letters of instructions, which shall form part of the law of the land.

7. The barangays and sanggunians shall continue as presently constituted but their functions, powers, and composition may be altered by law. Referenda conducted through the barangays and under the supervision of the Commission on Elections may be called at any time the government deems it necessary to ascertain the will of the people regarding any important matter whether of national or local interest.

8. All provisions of this Constitution not inconsistent with any of these amendments shall continue in full force and effect.

9. These amendments shall take effect after the incumbent President shall have proclaimed that they have been ratified by a majority of the votes cast in the referendum-plebiscite.

55. It was announced that what was to be held would be both a referendum and a plebiscite. Persons fifteen years of age or over would take part, but since those under eighteen years of age do not have the right of suffrage under the Constitution, as far as they were concerned there would be no more than a referendum or consultation to ascertain the feelings of the youth between the ages of fifteen and eighteen. However, as regards those eighteen years of age or over, there would be a plebiscite with respect to ratification of the proposed amendments to the new Constitution.

56. P.D. No. 1031 (September 22, 1976) assigned to the Commission on Elections the task of holding and supervising the referendum-plebiscite, but from September 27 to October 5, 1976, several cases (G.R. Nos. L-44640, 44684 and 44714) were filed with the Supreme Court to restrain the holding of said referendum-plebiscite, and annul P.D. Nos. 991, 1031 and 1033, upon the ground that the authority to propose amendments to the Constitution is, pursuant to the 1935 Constitution, vested in Congress or in a convention called for that purpose, and under the "1973 Constitution," in the *interim* National Assembly and the regular National Assembly. On October 12, 1977, the Court, by the vote of a majority of its members, with two dissenting votes, dismissed the cases.

57. The referendum-plebiscite was, accordingly, held as scheduled and soon after it was announced that the electorate had voted for the continuation of martial law and that the "amendments" to the "new" Constitution had been ratified and become effective.

58. Under this theory:

- (1) The *interim* National Assembly, provided for in the Constitution drafted by the 1971 Con-Con, has been abolished and substituted by an *interim* "Batasang Pambansa," which has the powers of the *interim* National Assembly, except that of ratifying treaties;
- (2) The incumbent President became *ipso facto* the Prime Minister, instead of the latter being elected by the interim legislative body;
- (3) The authority of the President to legislate, which had consistently been questioned in some quarters, is expressly sanctioned by the new "Constitution" as "amended";

- (4) The legislative power theretofore asserted by the President as a consequence of martial law can also be exercised after the lifting of martial law, even if there were an *interim* Batasang Pambansa or a regular National Assembly;
- (5) To the extent that a legislative act of the President may be inconsistent with that of either the *interim* Batasang Pambansa or the regular National Assembly, that of the President, especially if subsequent to the action of these legislative bodies, shall prevail.

59. In short, the "amendments" have thus vested in the President full legislative powers, during martial law as well as after it shall have been lifted, and these powers are superior to those of the *interim* Batasang Pambansa and the regular National Assembly.

Labor and Strikes

60. Upon proclamation of martial law, G.O. No. 5 of September 22, 1972, "strictly prohibited all rallies, demonstrations and other forms of group action . . . including strikes and picketing in vital industries," such as those engaged in the manufacture, processing or distribution of fuel and lubricating oil, or "in the production or processing of essential commodities or products for export" or "in companies engaged in banking . . . in hospitals and in schools and colleges." Any person violating the ban was made subject to detention "for the duration of the emergency." The prohibition was extended to public utilities, by P.D. Nos. 823 and 849 (November 3 and December 16, 1975), which permitted legitimate labor unions to strike and employers to "lock out in establishments not covered by G.O. No. 5," but only upon previous compliance with certain conditions calling for intervention of the Bureau of Labour, and provided that the President or his representative has not referred the case to the National Labour Relations Commission for compulsory arbitration. In other words, no strike or lockout could take place without prior consent of the government.

61. In effect, a general system of compulsory arbitration was adopted, if the parties did not submit to voluntary arbitration.

Other Effects of Martial Law

62. Some writers characterize martial law as being no more than the will of the military commander. This certainly is a very meaningful, if not ominous, description of its general effect in the legal field. Its significance is driven home by the fact that, pursuant to recent local judicial pronouncements, the Commander-in-Chief of the Armed Forces may, under martial law, not only exercise legislative powers to reform the present society or change existing conditions, but also cause the fundamental law to be amended by processes other than those prescribed therein.

63. In actual practice, martial law has more far-reaching consequences. Indeed, very few deal either with the Head of the Government, or with its ranking officials. The average member of the community has contacts with the lower echelons of the Armed Forces. In rural areas and villages far away from centers of population, there often are no more than noncommissioned officers, if not mere enlisted men. Furthermore, very often people deal with agents of the intelligence division who are neither regular members of the Armed Forces nor possessed of the background of discipline presumably inherent in the military.

64. Yet, in their official character, such members of the Armed Forces or intelligence operators act for the Commander-in-Chief, and in this sense *they represent martial law*. Its harshness is thus considerably dependent upon their actions, which are often affected by awareness of their relative omnipotence, if not oversensitivity about their image. This circumstance usually opens the door to two types of abuse: (a) maltreatment by the lower echelons of those who deal with them; and (b) undue enrichment of those in higher echelons and of people connected with them.

65. Under a martial law regime, the support of the Armed Forces is, however, essential for the Head of the Government. To obtain and maintain that support, he must keep the military, particularly its ranking officers, loyal to him. For this purpose, he has to satisfy, if not pamper, them with promotions, increases in pay, commendations, etc. Besides, the enhanced power and influence of the military, even in the political field, cannot but fill them with a sense of elation at the greater if not transcendental importance of their role in society under martial law. As a consequence, the ability of the Commander-in-Chief to curb their abuses is necessarily affected.

66. On the other hand, the restoration of normal constitutional processes would, conversely, divest the military of its vital role, as well as its tremendous powers and influence under existing conditions, apart from its precious and invaluable perquisites. In this sense, the lifting of martial law would adversely affect the Armed Forces, and many of its members are not likely, therefore, to consider such a measure with favor. In short, this is a factor to be reckoned with by the official contemplating such a move, and may have a deterrent effect upon it.

67. Lastly, the grave implications of martial law in the field of succession cannot be underestimated. As enforced by the Executive and construed by local judicial organs, the Commander-in-Chief may validly act without complying with some constitutional provisions, when in his opinion "national security" or the "preservation of the Republic" demands it. As a consequence, there is now no ostensible successor, should anything happen to him. On the other hand, the situation is not propitious for the adequate preparation of one who could reasonably be expected to command the support of the community (and the Armed Forces), should the unexpected happen.

ADDENDUM

Exclusive Jurisdiction of Military Tribunals September 22, 1972, to October 4, 1974

G.O. No. 3 (September 22, 1972)—as amended by G.O. No. 3-A—withdrawn from the jurisdiction of the civil courts the following classes of cases:

1. Those involving the validity, legality or constitutionality of Proclamation No. 1081, dated September 21, 1972, or of any decree, order or acts issued, promulgated or performed by me or by my duly designated representative pursuant thereto. (As amended by General Order No. 3-A, dated September 24, 1972.)
2. Those involving the validity, legality or constitutionality of any rules, orders or acts issued, promulgated or performed by public servants pursuant to decrees, orders, rules and regulations issued and promulgated by me or by my duly designated representative pursuant to Proclamation No. 1081, dated September 21, 1972.
3. Those involving crimes against national security and the laws of nations.
4. Those involving crimes against the fundamental laws of the State.
5. Those involving crimes against public order.
6. Those crimes involving usurpation of authority, rank, title, and improper use of names, uniforms and insignia.
7. Those involving crimes committed by public officers.

This was amended by G.O. Nos. 12, 12-A, 12-B and 12-C (September 20, October 20 and November 7 and 9, 1972) vesting in military tribunals exclusive jurisdiction, unless otherwise provided in said General Orders, over a long list of cases, to wit:

1. Those involving crimes against national security and the laws of nations as defined and penalised in the Revised Penal Code.
2. Those constituting violations of the Anti-Subversion Law as defined and penalised in Republic Act No. 1700.
3. Those constituting violations of the Law on Espionage as defined and penalised in Commonwealth Act No. 616.
4. Those constituting violations of the Hijacking Law as defined and penalised in Republic Act No. 6235.
5. Those involving crimes against the fundamental laws of the State as defined and penalised in the Revised Penal Code, if committed by members of the Armed Forces of the Philippines.
6. Those involving certain crimes against public order as defined and penalised under the Revised Penal Code, namely:
 - a. Rebellion or insurrection (Art. 134)
 - b. Conspiracy and proposal to commit rebellion or insurrection (Art. 136)
 - c. Disloyalty of public officers or employees (Art. 137)
 - d. Inciting rebellion or insurrection (Art. 138)

- e. Sedition (Art. 139)
 - f. Conspiracy to commit sedition (Art. 141)
 - g. Inciting sedition (Art. 142)
 - h. Illegal assemblies (Art. 146)
 - i. Illegal associations (Art. 147)
7. Those involving other crimes committed in furtherance or on the occasion of or incident to or in connection with the crimes of insurrection, rebellion, subversion or sedition.
8. Those involving crimes constituting violations of the Law on Firearms and Explosives found in the Revised Administrative Code and other existing laws.
9. Those involving crimes on usurpation of authority, rank, title, and improper use of names, uniforms and insignia as defined and penalised in the Revised Penal Code, including those penalised under Republic Act No. 493.
10. Those involving certain crimes committed by public officers as defined and penalised under the Revised Penal Code, provided that civil courts and military tribunals shall have concurrent jurisdiction thereon if the accused is a civilian, namely:
- a. Knowingly rendering unjust judgment (Art. 204)
 - b. Judgment rendered through negligence (Art. 205)
 - c. Unjust interlocutory order (Art. 206)
 - d. Malicious delay in the administration of justice (Art. 207)
 - e. Prosecution of offenses, negligence and tolerance (Art. 208)
 - f. Direct bribery (Art. 210)
 - g. Indirect bribery (Art. 211)
 - h. Corruption of public officials (Art. 212)
 - i. Frauds against the public treasury and similar offenses (Art. 213)
 - j. Prohibited transactions (Art. 215)
 - k. Possession of prohibited interest by a public officer (Art. 216)
 - l. Malversation of public funds or property (Art. 217)
 - m. Failure of an accountable officer to render accounts (Art. 218)
 - n. Illegal use of public funds or property (Art. 220)
 - o. Failure to make delivery of public funds or property (Art. 221)
 - p. Conniving with or consenting to evasion (Art. 223)
 - q. Removal, concealment or destruction of documents (Art. 226)
 - r. Officer breaking seal (Art. 227)
 - s. Opening of closed documents (Art. 228)
 - t. Revelation of secrets by an officer (Art. 229)
11. Those constituting violations of the Anti-Graft and Corruption Practices Law as defined and penalised in Republic Act No. 3019: Provided, that the civil courts shall exercise concurrent jurisdiction with the military tribunals if the accused is a civilian.
12. Those constituting violations of Republic Act No. 6425, otherwise known as "The Dangerous Drugs Act of 1972," provided that civil courts and military tribunals shall have concurrent jurisdiction thereon if the accused is a civilian.
13. Violations of all decrees, orders and regulations promulgated by me personally or upon my direction pursuant to Proclamation No. 1081, dated September 21, 1972.
14. Those involving crimes committed by officers and enlisted men of the Armed Forces of the Philippines, regardless of dates of commission and whether or not related to the performance of their official duties.
- In cases where there are civilians involved in the commission of the crime, the

case of the civilians will be jointly tried and decided along with the accused military personnel by the military tribunals.

Cases covered by this sub-paragraph which are now pending before the courts or the offices of provincial or city fiscals, either for preliminary investigation or trial on the merits, shall be transferred to military tribunals.

15. In any case over which the Philippines has jurisdiction pursuant to the existing Philippine-United States Military Bases Agreement, where the respondent is a member of the United States Armed Forces or civilian component thereof and their dependents, the preliminary investigation shall be conducted by the city or provincial fiscal concerned and the corresponding information filed with the proper civil courts, except where the offense involved is subversion, rebellion, sedition or any other crime committed in furtherance or on the occasion of or incident to or in connection with said crimes, which cases shall be filed with the military tribunals: Provided, however, That nothing in this General Order or in General Order No. 12 shall affect the existing Philippine-United States Military Bases Agreement.

16. Those constituting violations of the "Anti-Carnapping Act of 1972."

17. Those involving crimes against persons, and crimes against property, as defined and penalised in the Revised Penal Code, when committed by a syndicate or by a band. For this purpose, the offense shall be deemed committed by a syndicate if planned and carried out by a group of three or more persons formed with the intention of carrying out any unlawful or illegal transaction, enterprise or scheme. And whenever more than three armed malefactors shall have acted together in the commission of an offense, it shall be deemed to have been committed by a band.

18. Those involving crimes against public interest, as defined and penalised under the Revised Penal Code, if committed by a syndicate or by a band, as heretofore defined.

19. Smuggling in any form and violations of the revenue, tariff or customs laws of the Philippines committed in a large scale.

In cases under Nos. 16, 17, 18 and 19 above, the civil courts shall have concurrent jurisdiction with the military tribunals if the accused is a civilian. The court or tribunal that first assumes jurisdiction shall exercise jurisdiction to the exclusion of all others.

20. . . . Persons responsible for the operation of any medium of mass communication without the certificate of authority duly signed by the President of the Philippines, as provided under Presidential Decree No. 36 dated November 2, 1972.

This jurisdiction was enlarged by G.O. Nos. 21, 26, 28 and 31 (January 16, March 31, April 10 and June 29, 1973), by including therein:

21. Bank swindling and all other crimes that may constitute economic sabotage, whether the same is committed by one person or by a band or syndicate.

22. Any violation of the provisions of Republic Act No. 1405 on secrecy of bank deposits.

Appendix B
CHARGE SHEET
(Accused of sedition and inciting rebellion)

Quezon City, Philippines December 1976

DATA AS TO RESTRAINT:

1. Father Emmanuel Nabayra y Segovia	c/o PC Metrocom
2. Bishop Francisco Claver	At Large
3. Father Roger Antalan	"
4. Father Orlando Carvajal	"
5. Sister Mary Regina Pil	"
6. Father James Noonan	"
7. Father Gus Nazareno	"
8. Father Arsenio Vesena	"
9. Father Ted Anana	"
10. Father Rex Mansmann	"
11. Bishop Reginald Arliss	"
12. Father John Rich	"
13. Father John Dowling	"
14. Bishop Felix Perez	"
15. Father Joseph Croghan	"
16. Father Roberto Nucent	"
17. Father Kevin Lynch	"
18. Father Ray Honor	"
19. Father Dodong Lucod	"
20. Father Gene Hortigosa	"
21. Father Romy Malooy	"
22. Father Laly Moring	"
23. Father Pete de Guia	"
24. Father Wally Gensola	"
25. Father Tom O'Brian	"
26. Father Dave Sullivan	"
27. Sister Marion Chiteco	"
28. Bishop Julio Labayen	"
29. Father Jose Blanco	"
30. Alfredo Salanga y Navarro aka Freddy aka Fred	Detained, c/o TF "Pagkakaisa"

31. Al Santos y Rustia aka Al	Detained, c/o TF "Pagkakaisa"
32. Samuel Javellosa y Dorotheo aka Sam aka Sammy	"
33. Lualhati Abreu aka Sally	At Large
34. Amelita Balisalisa y Folino aka Amy aka Melot	Detained, c/o TF "Pagkakaisa"
35. Samson Escano y Paragas aka Sammy	"
36. Rolieto Trinidad	"
37. Joel Reterva	"
38. Pacito Bagarra y Chito	"
39. Esperanza Aranas	"
40. Cynthia Nabayra Masinaring	"
41. Nestor Masinaring	"
42. Amador Gumalong y Palmera	"
43. Leonardo Camao y Lucot	"
44. Tina Limcacco aka Ching Chem	At Large
45. Leopoldo Ajos y Cimadala	Detained, c/o TF "Pagkakaisa"
46. Vicenta Bustillo y Enrile	"
47. Ernesto Navarro y Pareja	"
48. Cecilio Reyes aka Celio aka Bote	At Large
49. Jesus Rubyo y Galvez	Detained, c/o TF "Pagkakaisa"
50. Jimmy de la Victoria	At Large
51. Lilia Malubay y de la Cerna	Detained, c/o TF "Pagkakaisa"
52. Antonina Marvasa y Matute	"
53. Melecio Karimon y Lansaderes	"
54. Emiliana Torion y Opay	"
55. Oscar Lagutiman y Lacaron	"
56. Ceferino Siarot y Canque	"
57. Apolinario Arado y Carumba	"
58. Erlinda Boiser y Gomez	"
59. Cavino Olandria y Morales	"
60. Loreta Colangco y Pabres	"
61. Geronimo Almeria y Sombilon	"
62. Crescencio Pacres y Marquez	"
63. Paquito Dejos y Lagang	"
64. Lot Miranda	At Large
65. Ireneo Donquillo Carumba	Detained, c/o TF "Pagkakaisa"
66. Emma Pogusa y Donguila	"
67. Sofronio Fernandez y Potilaro	"
68. Andres Acejo y Serapion	"
69. Jorge Burgos y Aluar	"
70. Rosalia Veloso y Agustin	"

71. Justiniano Veloso y Varias	Detained, c/o TF "Pagkakaisa"
72. Florentino Benetiz y Bandico	"
73. Pal Remotigue aka Duke	At Large
74. Jacinto Ortiza y Labasano	Detained, c/o TF "Pagkakaisa"
75. Sofronio Manlangit y Orbistondo	"
76. Augusto Veroy y Silverio	"
77. Rafael Marinon y Segura	Detained, c/o TF "Pagkakaisa"
78. Felix Dacog y Monniasque	"
79. Sonny Gonzales	At Large
80. Ceron Espinosa y Ravelo	Detained, c/o TF "Pagkakaisa"
81. Frederick Castro aka Dicky aka Lawaan	At Large
82. Lina Arila	"
83. Rody Rodil aka Pilo aka Emerito Rodriguez	"
84. Gaudencio Maglinis aka Lupogan	Detained, c/o TF "Pagkakaisa"
85. Raymundo Miramon y Rosiana	"
86. Jovene Rodriguez	"
87. Alberto Angana y Rosatio	"
88. Pete Miglat	At Large
89. Albino Ampiso y Carpentero	Detained, c/o TF "Pagkakaisa"
90. Jet Birondo	At Large
91. Malcu Tiangco	"
92. Relentor Legaspi y Roa	"
93. Francisco Tan y Te	"
94. Venancio Atabelo, Jr.	"
95. Antonio Antao aka Dading ka Pabling aka Abraham	At Large
96. Eduardo Lanzona	"
97. Father Ruben Birondo	"
98. Father Jose Sison	"
99. Philip Birondo	"
100. Alex Birondo	"
101. Ricky Filio	"
102. Loloy Tagud	"
103. Rhyme Petaclorin	"
104. Fred Granada aka Tony	"
105. Jimmy Lanoy aka Cmdr. Cosme	"
106. Modesto Sison aka Bong	"
107. Job Bisuna aka Jogski	"
108. Romeo Panes aka Abdul	"
109. Ernesto Gonzales aka Ernie	"
110. Norma Javellana	"

111. Father Jack Walsh	At Large
112. George Putan	"
113. Arturo Trangerera, Jr.	"
114. Ray Milot	"
115. Jack Manatag	"
116. Fe Carreon	"
117. Bobby Naraval	"
118. Antonio Natividad	"
119. Fred Cayon	"
120. Margie Fausta	"
121. Edwin Alcantara	"
122. Rubilito Maloloy-on	"
123. Magtanggol Roque	"
124. Editha Pino aka Perla	"
125. Eleonor Laborte aka Cha aka Nancy	"
126. Sergio Putan aka Walter aka Nayole	"
127. Rene Cononigo aka Floro	"
128. Manolet Agoncillo	"
129. Romeo Rupa	"
130. Pedro Bato	"
131. Nicomedes Selma	"
132. Julio Planas aka Annel	"
133. Reofilo Ronquillo aka Cocosy	"
134. Felomeno Pino	"
135. Felimon Malnegho	"
136. Sopriano Charet aka Joel	"
137. Emilio Banogan	"
138. Ruben Manuay	"
139. Andres Rosalinda	"
140. Lilibeth Ligtaan	"
141. Estrella Ligtaan	"
142. Berto Sumampong	"
143. Froilan Taya	"
144. Father Walter Maxey	"
145. Edgar Villanueva	"
146. Arthur Tagalog	"
147. Danilo Bacolod aka Cmdr. Magno aka Paul	"
148. Agnes Gallardo aka Tikia	"
149. Perla Sumunod aka Jojo	"
150. Roly Kintanar	"
151. Noel Mondejar	"

- | | |
|----------------------------------|----------|
| 152. Sergio Siscon aka Rudy | At Large |
| 153. Frank Rivera | " |
| 154. Bert Amora | " |
| 155. And several other John Does | " |

WITNESSES/OTHER EVIDENCES

- | | |
|-------------------------|------------------------------|
| 1. Davilo Morales, | c/o Col. Hermilo Ahorro, CO, |
| | TFP |
| 2. Lilia Judilla | " |
| 3. Eulalia Lacada | " |
| 4. Honorato Magdagasang | " |
| 5. And others | |

CHARGE I—Violation of Article 134, in relation to Article 135, Revised Penal Code, as amended.

SPECIFICATION:

In that accused Father Emmanuel Nabayra y Segovia, Bishop Francisco Claver, Father Roger Antalan, Father Orlando Carvajal, Sister Mary Regina Pil, Father James Noonan, Father Gus Nazareno, Father Arsenio Vesena, Father Ted Anana, Father Rex Mansmann, Bishop Reginald Arliss, Father John Rich, Father John Dowling, Bishop Felix Perez, Father Joseph Croghan, Father Roberto Nugent, Father Kevin Lynch, Father Ray Honor, Father Dodong Bucod, Father Gene Hortigosa, Father Romy Malooy, Father Laly Moring, Father Pete de Guia, Father Wally Gensola, Father Tom O'Brien, Father Dave Sullivan, Sister Marilou Chipeco, Bishop Julio Labayen, Father Jose Blanco, Alfredo Salanga y Navarro aka Freddy aka Fred, Al Santos y Rustia aka Al, Samuel Javellosa y Dorotheo aka Sam aka Sammy, Lualhati Abreu aka Sally, Amelita Balisalisa y Polino aka Amy aka Melot, Samson Escano y Baragas aka Sammy, Rolieto Trinidad, Joel Reterva, Pacito Bagarra aka Chito, Esperanza Aranas, Cynthia Nabayra Maninaring, Nestor Masinar-ing, Amador Gumalong y Palmera, Leonardo y Lucot, Tina Limcaooo aka Ching Chem, Leopoldo Ajos y Cimadala, Vicenta Bustillo y Enrile, Ernesto Navarro y Pareja, Cecilio Reyes aka Celio aka Bote, Jesus Rubio y Galvez, Jimmy de la Victoria, Lilia Malubay y-de la Cerna, Antonina Narvasa y Matute, Melecio Marimon y Lansaderes, Emiliana Torion y Opay, Oscar Lagutiman, Ceferino Siarot y Canque, Apolinario Arado y Carumba, Erlinda Boiser y Gomez, Gavino Olandria y Morales, Loreta Colango y Pabres, Geronimo Almeria y Sombilon, Cresencio Pacres y Marquez, Paquito Dejos y Lagano, Lot Miranda, Ireneo Don Quilio y Cabrera, Emma Pogusa y Donguila, Sofronio Fornandes y Potilano, Andres Acejo y Serapion, Jorge Burgos y Aluar, Rosalla Veloso y Agustin, Justiniano Veloso y Varias, Florentino Benetiz y Bandico, Pal Remotigue aka Duke, Jacinto Ortiza y Labasano, Sofronio Manlangit y Orbistondo, Augusto Veroy y Silverio, Rafael Marinon y Segura, Felix Dacog y Monniasque, Sonny Gonzales, Geron Espinosa y Ravelo, Frederick Castro aka Dicky aka Lawaan, Lina Arila, Rody Rodil aka

Pilo aka Emerito Rodriguez, Gaudencio Maglinis y Lubogan, Raymundo Miramon y Rosiana, Joveno Rodriguez, Alberto Angana y Rosatio, Pete Miglat, Albino Ampiso y Carpintero, Jet Bironde, Malcu Tiangco, Redentor Legaspi y Roa, Francisco Tan y Te, Venancio Atabelo, Jr., Antonio Antao aka Dading aka Pabling aka Abraham, Eduardo Lanzona, Father Ruben Bironde, Father Jose Sison, Philip Bironde, Alex Bironde, Ricky Filio, Loloy Tagud, Rhyme Petaclorin, Fred Granada aka Tony, Jimmy Lanoy aka Cmdr. Cosme, Modesto Sison aka Bong, Job Bisuna aka Jogski, Romeo Panes aka Abdul, Ernesto Gonzales aka Ernie, Norma Javellana, Father Jack Walsh, George Putan, Arturo Trangerera, Jr., Ray Milot, Jack Manatag, Fe Carreon, Bobby Naraval, Antonio Natividad, Fred Cayon Margie Fausta, Edwin Alcantara, Rubilito Maloloy-on, Magtanggol Roque, Editha Pino aka Perla, Eleonor Laborte aka Cha aka Nancy, Sergio Putan aka Walter aka Nayole, Rene Canonigo aka Floro, Manolet Agoncillo, Romeo Rupa, Pedro Bato, Nico-medes Serma, Julio Planas aka Annel, Reofilo Ronquillo aka Cocoso, Felomeno Pino, Felimon Malnegro, Sofriano Claret aka Joel, Emilio Banogan, Ruben Manuay, Andres Rosalinda, Lilibeth Ligtaan, Estrella Ligtaan, Berto Sumampong, Froilan Taya, Father Walter Maxey, Edgar Villanueva, Arthur Tagalog, Danilo Bacolod aka Cmdr. Magno aka Paul, Agnes Gallardo, aka Tikia, Perla Sumunod aka Jojo, Rolly Kintanar, Noel Modejar, Sergio Siscon, aka Rudy, Frank Rivera, Bert Amora, and several other John Does, being officers and/or leaders or members of the Communist Party of the Philippines (CPP), its military arm, the New People's army (NPA), and the United Front and/or Support Organizations such as the KHI RHO, the Young Christian Liberation Movement (YCLM), the Christians for National Liberation (CNL), the latter's military arm, the Batang Linti ni Bonifacio (BLB), the Junior Free Farmers (JFF), the Gamay nga Kristohanong Katilingban (GKK), the Kapulongan sa mga Pangulo ng Kapilya (KPK), persons subject to trial by the military tribunals, on or about, or prior to, or between the latter part of 1972 and early December 1976, in the provinces of Davao del Norte, Davao Oriental and Davao del Sur, in the City of Davao and elsewhere in the Philippines, conspiring, confederating and mutually helping one another, did, then and there, willfully, unlawfully and feloniously rise publicly and take up arms against the government for purpose of removing from the allegiance to the said government or its laws, the territory of the Republic of the Philip-pines . . .

Appendix C
CHARGE SHEET
Republic of the Philippines
Headquarters Philippine Constabulary
Office of the Constabulary Judge Advocate
Camp Crame, Quezon City

PEOPLE OF THE PHILIPPINES,
 Plaintiff,
 versus

CRIMINAL CASE NO. _____
 FOR: REBELLION AND
 INCITING TO
 SEDITION *DATA AS*
TO RESTRAINT:

1. Father Emmanuel Nabayra y Segovia
2. Father Ruben Birondo
3. Father Jack Walsh
4. Father Walter Maxey
5. Sister Mary Regina Pil
6. Father John Montenegro
7. Father Antonio Olaguer
8. Father Edicio de la Torre
9. Father E. Garcia
10. Father Jose Sison
11. Father Gus Nazareno
12. Francis Morales
13. Danny Cristobal
14. Antonio Natividad
15. Sonny Gonzales
16. Amelita Balisalisa y Poliño aka Amy aka Melot
17. Dina Edejer y Ferenal
18. Samson Escaño y Paragas
19. Samuel Javelosa y Dorotheo
20. Al Santos y Rustia
21. Alfredo Salanga y Navarro
22. Esperanza Aranas

c/o PC METROCOM
 At Large

Detained, c/o TF "Pagkakaisa"

- | | |
|------------------------------------|-------------------------------|
| 23. Pacito Bagara aka Chito | Detained, c/o TF "Pagkakaisa" |
| 24. Cynthia Masinaring | " |
| 25. Nestor Masinaring | " |
| 26. Joel Reterva | " |
| 27. Rolieto Trinidad | " |
| 28. Andres Acejo y Serapion | " |
| 29. Geronimo Almeria y Sombilon | " |
| 30. Leopoldo Ajos y Cimagala | " |
| 31. Alberto Angana y Rosalio | " |
| 32. Apolonio Arado y Carumba | " |
| 33. Venancio Atabelo, Jr. | " |
| 34. Pedro Baluyot y Lansaderis | " |
| 35. Florentino Benitez y Bandico | " |
| 36. Erlinda Boiser y Gomez | " |
| 37. Jorge Burgos y Alvar | " |
| 38. Vicenta Bustillo y Enrile | " |
| 39. Loreta Colango y Pobres | " |
| 40. Alberto Cupang y Tigala | " |
| 41. Paquito Dejos y Lagang | " |
| 42. Felix Dacog y Moniasque | " |
| 43. Ireneo Donguila y Carumba | " |
| 44. Geron Espinosa y Ravelo | " |
| 45. Sofronio Fernandez y Patillano | " |
| 46. Elsa Galo y Sulay | " |
| 47. Amador Gumalong y Palmera | " |
| 48. Leonardo Gamao y Sucat | " |
| 49. Albino Hempiso y Carpentero | " |
| 50. Francisco Jongco y Rico | " |
| 51. Venancio Lariosa y Ogahapon | " |
| 52. Redentor Legaspi y Roa | " |
| 53. Carolino Luayon y Libot | " |
| 54. Eleuterio Licayan y Maon | " |
| 55. Oscar Lugatiman y Pacaron | " |
| 56. Amador Lumanog y Ocampo | " |
| 57. Caudencio Maglinis y Lupogan | " |
| 58. Bertoldo Malimbasa | " |
| 59. Lilia Malubay y de la Cerna | " |

60. Sofronio Manlangit y Urbistondo	Detained, c/o TF "Pagkakaisa"
61. Melecio Marimon y Lansaderis	"
62. Rafael Marimon y Segura	"
63. Raymundo Marimon y Rusiana	"
64. Ernesto Navaroo y Pareja	"
65. Antonia Narvasa y Matute	"
66. Jacinto Ortiza y Labasana	"
67. Gavino Olandria y Bornales	"
68. Cresencio Pacres y Marquez	"
69. Jaime Piosan y Bengga	"
70. Emma Pogusa y Donguila	"
71. Emiliano Ragas y Torre Palma	"
72. Joveno Rodriguez	"
73. Jesus Ruelo y Galvez	"
74. Samuel Subijana y Basitor	"
75. Ceferino Siarot y Canque	"
76. Francisco Tan y Te	"
77. Emeliana Torion y Opay	"
78. Melba Vea y Avellano	"
79. Justinia Veloso	"
80. Rosalia Veloso y Agustin	"
81. Augusto Viroy y Silverio	"
82. Rene Atilyo	At Large
83. Cecilio Reyes	"
84. Rudy Rudil	"
85. Lualhati Abreu	"
86. Nelia Sancho	Detained, c/o HPC Stockade
87. Linda Lacaba	At Large
88. Pelimon Lagman	"
89. Milagros Aguilap aka Shirley	"
90. Fred Alcantara aka Mark	"
91. Antonio Liao aka Brady	"
92. Primitivo Buagas, Jr.	"
93. Rolly Kentanar	"
94. Omar Sayoc	"
95. Benjamin de Vera aka Felimon	"
96. Julio Jambora	"
97. Anastacio Olota	"
98. Josefina Batikan	"

99. Victoriano Delgado	At Large
100. Verfello Duque	"
101. Tomas Castillo	"
102. Ambag Canteros	"
103. Ramon Tigtig	"
104. Celedonio Casas	"
105. Abundio Baniagogo	"
106. Esteban Sefuentes	"
107. Maximo Cereadal	"
108. Albino Lloremoso	"
109. Encarnacio Sefromes	"
110. Fermin Suliba	"
111. Rufino Ratso	"
112. Vening Veroy	"
113. Bonifacio Bonaguena	"
114. Sixto Jambora	"
115. Vicente Campoc	"
116. Mario Gaita	"
117. Bonifacio Morales	"
118. Boy Montederamos	"
119. Nicolas Tonieres	"
120. Vicente Aliwanon	"
121. Jose Masinoding	"
122. Inocencio Mandaba	"
123. Carmelo Sefuentes	"
124. Modesto Sison aka Bong, aka Paling	"
125. George Putan aka Mayole	"
126. Ray Hilot	"
127. Rogelio Caseñas	"
128. Manuel Arejola	"
129. Dale Muval	"
130. Ailin Mondejar	"
131. Emilio Neri	"
132. Romeo Montilla	"
133. Godofredo Trangia	"
134. Fred Granda	"
135. Jimmy Lanoy	"
136. Tatia Miramon	"
137. Jimmy Dignos	"
138. Boy Boiser	"
139. Elpido Gadion y Bacagmot aka Regie aka Loy aka Ramel	"
140. Rogelio Morales	"

141. Goden Lim	
142. Tiyo Arellano	At Large
143. Andoy Lim	"
144. Mayor Amatong	"
145. Benny Agustin	"
146. Ester Dasoc	"
147. Alex Birondo	"
148. Antonio Antao aka Kasamang aka Pabling aka Dading aka Daniel aka Abraham	"
149. Felix Maraňan aka Jess	"
150. Philip Birondo aka Pepe	"
151. Ed Tesada	"
152. Editha Carpio	"
153. Ricky Gonzales	"
154. Jacinto (Jack) Manatad	"
155. Marieta Exavier	"
156. Roger Galo	"
157. Dario Robelles	"
158. Virgilio Bernardo	"
159. Lee Narvasa	"
160. Leticia Endoy	"
161. Jessie Loy Cortez	"
162. Satur Ehilla	"
163. Rene Canonigo aka Floro	"
164. Gilbert Carreon aka Edward Alcantara aka Willi	"
165. Rubilito Maloloy-on	"
166. Romeo Rupa	"
167. Leonor Laborde aka Nancy	"
168. Editha Pino aka Nancy aka Perla	"
169. Lito Maraňan	"
170. Pedro Bato	"
171. Nicomedes Selma	"
172. Sergio Putan aka Walter	"
173. Julio Planas aka Annel aka Amor aka Dindo	"
174. Reofilo Ronquillo aka Cococy	"
175. Boy Ligtaan aka Pamel	"
176. Alex Ty	"
177. Froilan Tay aka Taya	"
178. Alma Bantigue aka Blusel	"

179. Antonio Pantorial aka Dan	At Large
180. Doring Liston aka Ricky	"
181. Renato Penarubia aka Ernie	"
182. Aniceto Martinez aka Benjie	"
183. Sofronio Claret aka Joel	"
184. Conrado Posedas aka Felipe	"
185. Pedro Mendez aka Nono	"
186. Andres Rosalinda aka Gabriel	"
187. Alfredo Dimitra aka Ramil aka Francis	"
188. Estrella Ligtaan aka Tessie	"
189. Lilibeth Ligtaan aka Betty	"
190. Lolita Inguilta aka Maring	"
191. Mateo Arcena aka Eddie	"
192. Rustico Poqueta aka Tikboy	"
193. Inocencio Madesarsil aka Rolly	"
194. Ernesto Gonzales aka Nito	"
195. Jesus Leyte aka Maning aka Felix	"
196. Norberto Melchor aka Peding aka Negro	"
197. Fe Carreon	"
198. Morillo Judilla	"
199. Leopoldo Reponte	"
200. Sergio Amenita	"
201. Nestor Cabonilas	"
202. Totong Estares	"
203. Emiliana Gonzaga	"
204. Marcela Ulanday	"
205. Rodrigo Atabelo	"
206. Pablo Salibio	"
207. Arturo Bordoia	"
208. Patria Buencameno	"
209. And several other John Does	"

WITNESSES/OTHER EVIDENCE:

1. Davilo Morales

c/o Col. Hermilo Ahorro, CO,
TFP

2. Lilia Judilla

c/o Col. Hermilo Ahorro, CO,

TFP

3. Eulalia Lacada

"

4. Honorato Magdagasang

"

5. And others

CHARGE I—Violation of Article 134, in relation to Article 135, Revised Penal Code, as amended.

SPECIFICATION:

In that the above-named respondents, and several other John Does, being Officers and/or leaders or members of the Communist Party of the Philippines (CPP), its military arm, the New People's Army (NPA) and its United Front and/or Support Organizations such as the KHI RHO, the Young Christian Liberation Movement (YCLM), the Christians for National Liberation (CNL), the latter's military arm, the Batang Linti ni Bonifacio (BLB), the Junior Free Farmers (JFF), the Gamay nga Kristohanong Katilingban (GKK), the Kapulongan sa mga Pangulo ng Kapilya (KPK), persons subject to trial by the military tribunals, on or about or prior to, or between the latter part of 1972 and early December 1976, in the provinces of Davao del Norte, Davao Oriental and Davao del Sur, in the City of Davao and elsewhere in the Philippines, conspiring, confederating and mutually helping one another, did, then and there, wilfully, unlawfully and feloniously rise publicly and take up arms against the government for purpose of removing from the allegiance to the said government or its laws, the territory of the Republic of the Philippines, or any part thereof, or any body of land, naval or other armed forces, or of depriving the President of the Philippines, wholly or partially of any of his powers or prerogatives, by then and there:

1. Organizing themselves into, and/or affiliating themselves with, leading and supporting participating in the illegal activities and becoming members of, the aforesaid CPP/NPA and its above-mentioned United Front Organizations;

2. Recruiting and training members and soliciting contributions, in cash or in kind, for the aforesaid CPP/NPA and its above-mentioned United Front Organization;

3. Procuring and illegally storing, possessing and using assorted firearms and ammunition;

4. Ambushing or attacking and resisting government troops, engaging government forces in armed combat, and/or attacking peaceful communities, killing innocent civilians and robbing them of their possessions and engaging and carrying out other terroristic, atrocious and illegal or criminal activities, among such incidents, being the following:

(1) On or about 24 July 1974, a group of armed NPA rebels engaged combined elements of Davao del Norte and Davao del Sur Constabulary Command and 4th Constabulary Security Unit in armed combat at Darong,

Sta. Cruz, Lavao del Sur, during which Sgt. Serencio of the Davao del Norte Constabulary Command was killed while nine (9) members of armed rebels were killed and seven (7) of them wounded;

(2) On or about 7 August 1974, a group of about 100 NPA rebels under Nuangay Dumalao attacked barrio Abante, Kiblawan, Davao del Sur, during which four (4) innocent civilians were killed, three (3) were wounded and three (3) others were missing, and looted 46 horses, 29 carabaos, 20 goats, 10 pigs, one (1) sewing machine, one (1) radio phone and cash of about P10,150.00.

(3) On or about 17 August 1974, a group of about 200 armed NPA rebels attacked barrio Abante, Kiblawan, Davao del Sur for the second time and burned about 82 houses thereat;

(4) On or about 22 August 1974, armed NPA group under Commander Pilo engaged elements of Davao del Norte Constabulary Command in armed combat at Sitio Bawata, Asuncion, Davao del Norte during which five (5) members of the armed NPA group were captured and three (3) assorted firearms recovered from them;

(5) On or about 1 September 1974, an armed NPA group under Commander Billy engaged elements of Davao del Norte Constabulary Command at Quirant II Street, Tagum, Davao del Norte during which one (1) Philippine Constabulary soldier was killed while Comdr. Billy himself was killed and his two (2) companions were captured;

(6) On or about 18 October 1974, combined elements of 431st Philippine Constabulary Company and Civilian Home Defense Force were engaged in armed combat by a group of NPA rebels at barrio Saboy, Matanao, Davao del Sur during which one (1) NPA member was killed and three (3) MM 12-gauge shotguns were captured by the government;

(7) On or about 26 October 1974, a patrol composed of a policeman Bario Captain Armendo Buta and Civilian Home Defense Force members was ambushed at Batal-Boo, Kiblawan, Davao del Sur by NPA armed group, five (5) of whom were killed during the armed combat;

(8) On or about 28 October 1974, barrio Acasia, Magsaysay, Davao del Sur was attacked by NPA rebels who killed five (5) innocent civilians, wounded a woman and looted several heads of carabaos;

(9) On or about 1 November 1974, armed NPA rebels engaged a patrol of the 54th Philippine Constabulary Battalion in armed combat in Sitio Sultana, Kiblawan, Davao del Sur during which a rebel was killed and two (2) horses were recovered by the government troops; awan, Davao del Sur during which a rebel was killed and two (2) horses were recovered by the government troops;

(10) On or about 3 November 1974, about 200 heavily armed NPA rebels raided barrio Towak, Matanao, Davao del Sur but were able to burn only a few small houses because about 15 Civilian Home Defense Force volunteers put up a courageous armed resistance and as a result thereof, about ten (10) of the rebels were killed;

(11) On or about 3 November 1974, a group of armed NPA rebels engaged

a patrol of the 54th Philippine Constabulary Battalion in armed combat at barrio Towak, Matanao, Davao del Sur during which one (1) member of the Civilian Home Defense Force was wounded while twenty-one (21) rebels were killed from whom four (4) assorted firearms were captured;

(12) On or about 15 November 1974, about 100 heavily armed NPA rebels engaged a patrol of the 54th Philippine Constabulary Battalion in armed combat during which one (1) Philippine Constabulary Officer and two (2) soldiers were wounded while casualty on the rebel group was undetermined;

(13) On or about 8 February 1975, an armed NPA rebel group engaged a patrol of the 542nd Philippine Constabulary Company in armed combat at Sitio Camaging, barrio Bonifacio, Kiblawan, Davao del Sur during which two (2) of the rebels were killed;

(14) On or about 17 April 1975, an NPA armed group engaged a Philippine Constabulary patrol led by SSgt. Lorena in armed combat at barrio Tagugpo, Lupon, Davao Oriental during which NPA members Nic Saloma aka Noni, Leonilo Magallanes aka Raul Marquez aka Rudy and one (1) other were killed;

(15) On or about 22 April 1975, an armed group killed Patrolman Nilo Lagrada in Banaybanay, Davao Oriental;

(16) On or about 4 May 1975, an NPA armed group engaged a Philippine Constabulary patrol led by SSgt. Lorena in armed combat at New Bisayas, Lupon, Davao Oriental during which NPA member Hinidino Narvasa was killed;

(17) On or about 17 May 1975, an NPA armed group engaged a combined Constabulary-Civilian Home Defense Force Patrol led by SSgt. Ricarlito Jaylo in armed combat at Magsaysay, Lupon, Davao Oriental during which NPA member Rodrigo Casignan was killed and one (1) caliber .22 Magnum MM revolver was captured;

(18) On or about 19 May 1975, NPA member Fabian Binabaye attacked a Philippine Constabulary patrol led by SSgt. Cecilia Alipas in Licop, Mati, Davao Oriental during which Fabian Binabaye was killed and 20-gauge shotgun, 12-inch knife and several pieces of amulet were captured;

(19) On or about 21 May 1975, an undetermined number of NPA elements engaged a Philippine Constabulary patrol led by Sgt. Rudy Bala in armed combat at Tigbao, Maragusan, Davao del Norte during which NPA member Saturnino Armamento was killed and one (1) 12-gauge shotgun was captured;

(20) On or about 28 May 1975, about fifty (50) NPA armed men surrounded the houses of Councilmen/Civilian Home Defense Force members Enrique Montero and Lorenzo Morales in Sitio Casunogan, Lupon, Davao Oriental and hogtied and killed the two (2) of them;

(21) On or about 21 June 1975, a group of NPA rebels hogtied and killed SSgt. Antonio Lababo of the Philippine Constabulary, Patrolman Dizon and Special Policemen Renario Lusgan and Capiloyan in barrio Laing, Mati, Davao Oriental;

(22) On or about 28 June 1975, an NPA Sparrow (Liquidation) Unit composed of Remy Canonigo aka Floro aka Pole and Elcadio Cadion aka Comdr. Reggie aka Boy aka Rommel shot to death Barangay Captain/Civilian Home Defense Force Member Hipolito Segurado in Mahayag, Banaybanay, Davao Oriental;

(23) On or about 6 July 1975, a group of NPA rebels engaged a Philippine Constabulary patrol led by SSgt. Cecilio Alipar in armed combat at Sitio Catanan, San Isidro, Davao Oriental during which one (1) member was killed;

(24) On or about 16 July 1975, a group of NPA rebels believed to be led by Comdr. Badedong engaged a Philippine Constabulary patrol led by TSgt. Juisan Castro in armed combat at Barangay Luzon, Governor Generoso, Davao Oriental during which NPA member Generio Basilan was wounded and captured;

(25) On or about 2 August 1975, a Civilian Home Defense Force patrol was attacked by a group of NPA rebels at Padas, Mati, Davao Oriental during which two (2) members of the patrol were killed and one (1) was wounded;

(26) On or about 6 August 1975, two (2) NPA rebels engaged a patrol of police and special police in armed combat at Sitio Tubli, Barangay Tubaon, Tanagong, Davao Oriental, during which NPA member Cuison Nilayan was killed and one (1) MM pistolized 12-gauge shotgun was captured;

(27) On or about 23 August 1975, an NPA group kidnapped Delfin Magmaling, Modesto Magmaling, Insero Simbahon and Justino Palmera in Tagugpo, Lupos, Davao Oriental;

(28) On or about 16 August 1975, NPA elements killed Vicente Torregos, farmer, 50 years old, and wounded Victoriano Maluluy-on at Barangay Maputi, Banaybanay, Davao Oriental;

(29) On or about 18 August 1975, NPA elements shot and killed Teodoro Pantonial 60, farmer at Barangay Langka, Lupon, Davao Oriental;

(30) On or about 18 August 1975, a combined Philippine Constabulary-Police-Civilian Home Defense Force patrol led by SSgt. Joaquin Delfin was engaged in armed combat by an NPA group at Barrio Tagaagaong, Barangay Tomoaong, Tarragona, Davao Oriental, resulting in the death of NPA member Vivencio Romeo Remandaban and the capture of one (1) caliber .22 MM Magnum revolver from him;

(31) On or about 29 August 1975, NPA elements led by Comdr. Jesus Maranan aka Pat aka Bobong aka Sito shot at, but missed, Pedro Setenta, a former detainee suspected of being an NPA sympathizer, in Barangay Don Mariano Marcos, Lupon, Davao Oriental;

(32) On or about 29 August 1975, NPA elements shot to death Camilo Adame, 38, farmer, and shot and wounded Bonifacio Cajés y Claro in Sitio Upper Maglangong, Barangay Maragusan, Pantukan, Davao del Norte;

(33) On or about 29 August 1975, a patrol of Civilian Home Defense Force resting at the house of Barangay Captain Melchor Uyanguren was fired upon

by a group of NPA elements in Sitio Bukadan, Barangay Tagbinonga, Mati, Davao Oriental;

(34) On or about 29 August 1975, a group of about three (3) NPA elements engaged a Philippine Constabulary patrol led by SSgt. Joaquin Delfin in armed combat at Barangay Pundaguitan, Governor Generoso, Davao Oriental resulting in the death of one (1) NPA member;

(35) On or about 29 August 1975, a group of about six (6) NPA members engaged a police patrol under station Comdr. Basilio Giducos in armed combat at Manay, Davao Oriental during which two (2) NPA members were believed wounded;

(36) On or about 3 September 1975, two (2) unidentified armed men believed to be members of the NPA Sparrow (Liquidation) Unit fired upon Willy Leones, tailor, and Felipe Rulona y Cua at the latter's house in Barangay Piso, Banaybanay, Davao Oriental and as a result, Rulona was hit and seriously wounded and evacuated to the hospital;

(37) On or about 13 September 1975, a group of about two (2) NPA rebels engaged a combined Philippine Constabulary-Police-Civilian Home Defense Force patrol led by 1st Lt. Barotilla in a firefight at Sitio Langawisan, Barangay Ompao, Tarragona, Davao Oriental resulting in the death of NPA members Alvino Nazario aka Bienvenido Ladoza aka Dario aka Davis aka Olson and the other aka Ruben and the capture of two (2) caliber .22 HM Magnum revolvers with nine (9) rounds of ammunition, one (1) compass, seven (7) rounds of Japanese caliber .25 ammunition and subversive documents;

(38) On or about 17 September 1975, a group of NPA rebels threw a hand grenade at the house of Civilian Home Defense Force Chief Gregorio Wating and engaged the Civilian Home Defense Force Unit in armed combat at Barangay Tomoaong, Tarragona, Davao Oriental during which one (1) NPA member was killed and a civilian was wounded;

(39) On or about 17 September 1975, a combined Constabulary-Special Police-Civilian Home Defense Force patrol led by SSgt. Fernando Lindo was ambushed by undetermined number of NPA elements in Sitio Buan, Barangay Ompao, Tarragona, Davao Oriental but the NPA elements escaped toward the forested area but bloodstains were found on their escape route;

(40) On or about 22 September 1975, a group of about ten (10) NPA rebels led by Comdr. Alexander Birondo seized two (2) 12-gauge riot guns from security guards of Daticor Minsu at Site 4, Barangay Tagbinonga, Mati, Davao Oriental, commandeered a Datico bus and seized one (1) other riot gun in Waywayan, of the same place;

(41) On or about 24 October 1975, two (2) unidentified armed men believed to be members of the NPA shot and killed Bartolome de Guzman, administrator of the Quivedo Farm in Mati, Davao Oriental;

(42) On or about 25 October 1975, Special Policeman Avalon Bayrola was shot and killed by unidentified armed men believed to be NPA members in Banaybanay, Davao Oriental;

(43) On or about 17 November 1975, a group of NPA rebels engaged a patrol led by Sgt. Alonto Abdul at Don Mariano Marcos, Lupon, Davao Oriental during which NPA members identified as Boy Maluloy-on Felomino Pino and Guillermo Malnegro were killed;

(44) On or about 23 November 1975 elements of NPA Sparrow (Liquidation) Unit led by Doring Liston aka Lando shot and stabbed Teofilo Goc-ong, 23 years old; and on the same date, another NPA Sparrow Unit under Antonio Cabantoy aka Tony aka Imo shot Marcelo Avila to death at Ilangay, Lupon, Davao Oriental;

(45) On or about 29 November 1975, CHDF member Celso Nera was shot to death by NPA Sparrow Unit under Doring Liston aka Lando at San Vicente, Lupon, Davao Oriental;

(46) On or about 15 January 1976, a group of NPA rebels under Comdr. Alfon ambushed a Philippine Constabulary-Special Police patrol at Sitio Lunas, Barangay Mapawa, Davao del Norte during which four (4) NPA members were killed and three (3) Paltik shotguns were captured.

(47) On or about 18 January 1976, an NPA Sparrow (Liquidation) Unit engaged a combined Philippine Constabulary-Police-Civilian Home Defense Force patrol in armed combat at Sitio Tugamot, Barangay Davan, Mati, Davao Oriental during which Sparrow Unit leader Remigio Canonigo aka Remy aka Floro aka Ruel was killed and one (1) caliber .45 Colt pistol with four (4) rounds of ammunition and one (1) caliber .22 Magnum Paltik revolver with two (2) rounds of ammunition were captured;

(48) On or about 22 January 1976, an NPA group engaged a Civilian Home Defense Force patrol in armed combat at Barangay New Visayas, Lupon Davao Oriental during which Jose Sabanal aka Walter aka Guller and one aka Gil were killed;

(49) On or about 26 January 1976, a group of four (4) unidentified armed men believed to be NPA elements engaged a joint Police-Civilian Home Defense Force patrol led by Mauro Caballero in armed combat at Sitio Lantawan, Barangay Tubutubo, Monkayo, Davao del Norte during which three (3) of the armed men were killed and two (2) caliber .22 revolvers with seven (7) rounds of ammunition and a hunting knife were captured and one (1) civilian was wounded;

(50) On or about 21 February 1976, a group of NPA rebels engaged a joint Philippine Constabulary-Civilian Home Defense Force patrol in armed combat at New Bataan, Davao del Norte during which NPA members Raymundo Petalcorin aka Comdr. Ray aka Remy, Jualvito Arsenal and Abel Deslaba were killed and one (1) carbine, one (1) SG Winchester rifle and one (1) Springfield rifle were captured;

(51) On or about 26 February 1976, a group of NPA rebels engaged a joint Philippine Constabulary-Civilian Home Defense Force patrol in armed combat at Sitio Sananadman, Barangay San Fermin, Manay Davao Oriental during which NPA members Irineo Ongcay and Eustiquio Monghit were killed

and one (1) US fragmentary hand grenade, one (1) caliber .22 HM pistol, one (1) caliber .22 Magnum Paltik revolver and one (1) caliber .45 Smith and Wesson pistol were captured;

(52) On or about 26 February 1976, a group of NPA rebels engaged the Civilian Home Defense Force of Panamin in armed combat at Barrio Maraot, Mabini, Davao del Norte during which NPA members Luciano de la Cerna and one other were killed and one (1) caliber .22 magnum revolver was captured, while Jun Mabayao of the government side was wounded and one (1) government Garand rifle was taken by the NPA group;

(53) On or about 27 February 1976, a group of NPA rebels led by Comdr. Cosme engaged a joint Philippine Constabulary-Civilian Home Defense Force patrol in armed combat at Upper Matilo, Nabunturan, Davao del Norte, captured from the scene of the armed combat after the NPA group withdrew were one (1) caliber .38 HM revolver with four (4) rounds of ammunition and subversive documents;

(54) On or about 11 March 1976, a group of NPA rebels led by Ricardo Filio engaged a joint Philippine Constabulary-Civilian Home Defense Force patrol in armed combat at Upper Sonlon, Asuncion, Davao del Norte during which Ricardo Filio aka Comdr. Noli aka Boying was killed and some of his companions were wounded and one (1) M-16 Armalite rifle was captured;

(55) On or about 14 March 1976, an NPA rebel group engaged a police patrol in armed combat at Sitio Bonglay, Barrio Buadan, New Bataan, Davao del Norte during which one (1) 20-gauge HM shotgun firearm, a flashlight and five (5) traveling bags were captured;

(56) On or about 16 March 1976, a group of NPA rebels engaged a joint Philippine Constabulary-Civilian Home Defense Force patrol in armed combat at Sitio Tuc-ah, Barrio Laac, Sitio Linumbaan, Barrio Langtud, all in Davao del Norte during which NPA members Jessie Asidillo aka Lito aka Arnold aka Ramon aka Jing and Jimmy Flores aka Roger were killed;

(57) On or about 23 March 1976, a group of NPA rebels engaged a police patrol in armed combat at Sitio Upper Aquibana, Barrio Bantakan, New Bataan, Davao del Norte;

(58) On or about 6 April 1976, a heavily armed group believed to be NPA elements engaged a Civilian Home Defense Force patrol led by Vice Mayor Bugas o Nabunturan in armed combat at Barrio Sambayan, Nabunturan, Davao del Norte during which three (3) civilian Home Defense Force members and one (1) civilian were killed and another civilian was wounded.

(59) On or about 11 May 1976, an NPA group believed to be led by Renato Casipe ambushed a Philippine Constabulary patrol at Barrio Banbanon, Asuncion, Davao del Norte during which C1C Edgardo Senador was killed and TSgt. Mariano Beltran, SSgt. Rene Jocson and Prosperador Rabelo and Sgt. Norberto Jaoacat and civilian guide Venancio Teyaga were wounded and one (1) caliber .45 pistol was lost and two (2) M-16 Armalite rifles were destroyed;

(60) On or about 8 June 1976, heavily armed men believed to be NPA

elements under Pedro Gil ambushed a 5-man Civilian Home Defense Force patrol, three (3) of whom Marcial Austria, Virgilio Austria and Paterno Bocoanon, were wounded;

(61) On or about 26 June 1976, Patrolman Virgilio Gencianos of New Bataan Integrated National Police Sub-Station was fired upon by unidentified armed men believed to be NPA elements at Barrio Pantakan, New Bataan, Davao del Norte but was not hit;

(62) On or about 14 July 1976, a group of NPA rebels engaged a Philippine Constabulary patrol under 2nd Lt. Remegio Bertolini in armed combat in Barrios Longgawasan and Tagalonglang, Maragusan, Davao del Norte during which two (2) HM shotguns and assorted ammunition and shells recovered from the scene;

(63) On or about 27 July 1976, five (5) unidentified armed men believed to be NPA elements shot and killed Wilhado Gambing in Tambok, Barangay, Baculin Banganga, Davao Oriental;

(64) On or about 14 August 1976, a group of about ten (10) NPA rebels engaged a joint Philippine Constabulary-Police Civilian Home Defense Force patrol led by TSgt. Antonio Bolana in armed combat at Maragusan, Davao del Norte during which one (1) NPA rebel was killed and two (2) pistols and one (1) 20 gauge HM shotgun with three (3) rounds of ammunition were captured;

(65) On or about 26 August 1976, about thirty (30) heavily armed NPA rebels attacked San Isidro, Davao Oriental and fired at the Municipal Building causing estimated damage of P10,000.00, exploded a grenade to open the vault of the San Isidro community Rural Bank but failed to open; however, the explosion caused estimated damage of P70,000.00; burned two gasoline stations, service cars and houses and killed three (3) persons and wounded two (2) others;

(66) On or about 27 August 1976, undetermined number of NPA rebels attacked Governor Generoso, Davao Oriental resulting in the killing of Integrated National Police Station Commander Candido Abuda and Civilian Home Defense head Mauro Singson. Four (4) government firearms were taken by the rebels;

(67) On or about 9 September 1976, a group of NPA rebels in their hide-out in Davao Oriental engaged a Civilian Home Defense Force patrol led by SSgt. Ricardo Esmalana in armed combat, during which NPA rebels Romeo Indigo aka Comdr. Piping, Fermin Dora aka Comdr. Gaspar and Miguel Loling aka Bakit were killed and a 20-gauge HM shotgun and a caliber .22 HM revolver and subversive documents were captured;

(68) NPA rebels fired rockets simultaneously from west to east toward the Municipal Building of Baganga, Davao Oriental, another toward the Panamin Headquarters in Sangab Caraga, Davao Oriental and other rockets fired toward the vicinity of the Menzi Airport in Mati, Davao Oriental;

(69) On or about 7 November 1976, two (2) unidentified armed men believed

to be NPA rebels entered the Philippine Constabulary Detachment in Lonaganan, Asuncion, Davao del Norte and shot and killed C1C Celestino Prieto, two (2) civilian visitors and wounded two (2) other women visitors and took with them two (2) M-16 Armalite rifles;

(70) On or about 13 November 1976, a Philippine Constabulary patrol led by C1C Rodolfo de los Santos was ambushed by heavily armed NPA rebels believed to be led by Antonio Antao at Sitio Mambusao, Taocanga, Manay, Davao Oriental and as a result seven (7) members of the patrol were killed, two (2) were wounded and two (2) others were missing; and two (2) M-16 Armalite rifles, two (2) carbines, five (5) Garand rifles and two (2) pistols were taken by the rebels;

(71) On or about 24 November 1976, an estimated thirty (30) armed men believed to be NPA rebels ambushed and killed Civilian Home Defense Force members Tranquilino Alcabre, Vicente Alcabre, Arturo Semense and Jose Saliao, a tax collector at Barrio Aguinaldo, Asuncion, Davao del Norte, and took with them two (2) caliber .22 Magnum and one (1) caliber .38 revolver.

5. Maintaining, operating and utilizing the installation/facilities of the radio station DXCD for the transmission and/or dissemination of messages and information for carrying out and/or attaining the objectives and purposes of the aforesaid Communist Party of the Philippines as well as the New People's Army and United Front Organizations.

CHARGE II—Violation of Article 142 (Inciting to Sedition), Revised Penal Code, as amended.

SPECIFICATION:

In that the above-named respondents and several other John Does, persons subject to trial by the military tribunals, prior to, on or about, or between the period from late 1972 to early December 1976, in the city of Davao, in the provinces of Davao del Norte, Davao Oriental and Davao del Sur, and elsewhere in the Philippines, conspiring, confederating and mutually helping one another, and the above-named accused who belong to the religious sector taking advantage of their position as religious leaders and exercising and utilizing their moral ascendancy and influence over their religious and other followers, in disregard of the principle of separation between Church and State enshrined in Section 8, Article IV and Section 18 (2), Article VIII of the Constitution of the Philippines, did, then and there, wilfully, unlawfully and feloniously, by means of speeches, proclamations, writings, emblems, cartoons, banners, or other representations tending to the same end, utter, publish, write and circulate scurrilous libels against the government of the Republic of the Philippines and the duly constituted authorities thereof, which tend to disturb or obstruct the lawful officers in executing the functions of their office, or tend to instigate others to cabal and meet together for unlawful purposes, or suggest or incite rebellious conspiracies or riots, or tend to stir up the people against the lawful authorities, or disturb the peace of the community, and the safety

and order of the Government, by then and there equipping and providing themselves with subversive documents which they used in seminars, discussions or lectures which they call to be "politicalizing the masses" or making them socially and/or politically aware but during such activities, the participants were being incited to hate and undermine the stability of the State and the duly constituted government of the Republic of the Philippines, samples of the aforesaid subversive documents being the following:

(1) "Pasyon ng Kamatayan," a portion of which reads, as follows:

Ako'y Pilipino . . . ako'y matiisin,
Sa harap ng dusa'y hindi madaingin.
Hirap at pighati'y kaya kong dibdibin,
Maluwag ang aking puso at damdamin.

Ngunit dumarating ang isang sandali,
Ng lumalabis na ang aking righati
Hirap, pagkaapi at pagkalugami . . .
Hanggang sa di ko na makuhang maotimpi.

Noong unang ako ay biglang tinutlan,
Ng mga minanang laya't karapatan,
Ay di ko nakuhang tumutol man lamang,
Dahilan sa sindak at Kabiglaanan.

Di ko inakalang ang kapangyarihan
Ipinahiram lang sa pamahalaan
Upang itong bayan ay ipagsanggalang
Ay sasamantalain pangahis sa bayan.

Ako'y nagtiwala sa mga pangako
Na mga Demokrasyang tinubos ng dugo,
Ng ilang bayani'y hindi iguguho.

Di ko akalaing may uri ng tao
Na pag nakatikim ng pagka-pangulo
Ay di na bibitiw sa natamong trono
Kahit ang sandiga'y lakas lang ng hukbo.

Ang lalong mahapding kabalimbunaan
Ay ang pangyayaring tayong mamamayan
Na siyang kadluan ng kapangyarihan
Ay siya pa ngayong pinaghaharian.

Buong sambayanan ay lalong nabaghan
Nang nabalitaan sa bulongbulongan
Na napakaraming mamamayan
Ang pinakukulong sa mga piitan.

Halos lahat sila'y walang kasalanan
O anomang krimen na maibibintang
Liban sa kanilang paninindigan
Laban sa abuso ng pangasiwaan.

At anong pagkalaking kabalintunaan
Kung sino pa yaong mga mararangal

Magiting, malinis, matapat sa bayan
Ang siyang dinakip at pinarusahan

Ang tula kong ito'y isang panawagan
Sa mga bayani nating mga mamamayan
At sa mga alagad ng katotohanan
Ng laya, ng dangal, at ng katarungan.

Hayo't pag-alabin sa ating sarili
Ang tapang at giting ng mga bayani
Ng kusang nangab'wal sa dilim ng gabi
Upang itong baya'y lumaya't bumuti.

Hayuna't kalagin yaong tanikala
Na nakagapos sa sawi tang bansa,
Hayuna't sikaping baya'y dumakila
Sa ating punyagi't tulong ni Bathala!

(2) "Three Years of Martial Law in the Philippines," dated September 21, 1975, by CLUP, a portion of which reads, as follows:

In short, martial law "Philippines Style" is dictatorship, pure and simple. It respects no constitutional rights, no civil liberties. It is subject to no effective checks and balances. It is limited to no fixed period of time.

Martial law has not solved the problems of law and order. Although the crime rate improved markedly, at the start of martial law, it is now back to near pre-martial law levels. Crimes against property have increased and will continue to increase as the economic situation worsens. Violence against persons by civilians is less; but its decline had been made up for by abuses committed by the military; through unreasonable searches and seizures; indiscriminate arrests, indefinite detentions, and frequent torture of political prisoners; repression of some minorities like the Kaligas and Bontocs; and reprisals against unarmed Muslims.

Martial law has not eliminated corruption in the Government. In fact, it has not even meaningfully reduced it. Abuses of power and privileges by old politicians are gone; but their place has been taken over by new mandarins who, unlike the former, are not accountable to the people.

Freedom of the press which was enshrined in our Constitution was scuttled by martial law through the use of two tested measures which reduce media to perpetual captivity, namely, censorship and press licensing.

The mechanics for press censorship was peremptorily placed into motion by the issuance of Department Order No. 1 of the Secretary of Public Information which decreed that in all cases, materials for publication and broadcast . . . shall be cleared by the Department . . . [including] all foreign dispatches and cables and that any correspondent filing his dispatch shall be held accountable for any alteration in any dispatch that has been [previously] cleared.

Prior to Proclamation No. 1081, our belief in the importance and strength of the rule of law bolstered our other beliefs in freedom and democracy, delineating the difference between our form of government then and despotism.

Now our beliefs and being swept away. For many, it is futile to invoke the rule of law.

These are abnormal times. The administration of justice is muddled. The individual has to contend not only with the policemen but also with the soldier. The

military arm moves as though in complete ignorance of such things as constitutional rights. The temper of the martial law regime indicated disregard and lack of concern for traditional rights so deeply cherished.

(3) Publication known as "Habagat," dated 21 September 1976, the editorial of which on page 1 reads as follows:

The dictator's drive toward monopolization has affected even the landed and propertied politicians. Marcos has attained control over big industries and agro-industrial concerns of his enemies by the simple method of not allowing their owners to extend periods of payment of million-peso debts.

The great majority of the population are at the losing side of martial law. This includes not only the basic masses—the workers and peasants—who together, constitute a little more than 9% of the population. Even those who stand at the top of 1% of the economic triangle—the compradors and landlords—are at the losing side of martial law.

The only people who have benefited from the imposition of martial law have been Marcos, his family and relatives, close henchmen, and a few other corrupt bureaucrats within the government and military machinery. With them stand the US and Japanese industrialists who are having a grand time making money out of the various investments and tax incentives given to foreign firms, plus the bonus ban on strikes.

All these were made possible through the imposition of martial law. For Marcos, by simply hanging on the heads of all and sundry the threat of arrest at the slightest dissent has forestalled widespread protest over his moves at monopoly and control.

(4) "Mga Awit ng Rebolosyon," a portion of which reads as follows:

PAMBANSANG HIMAGSIKAN

O masa ng ating bayan
Dantaon na sa kaapihan
Lalo nang tayo'y sakupin
Ng imperyalismong gahaman.

Ano ang ating katugunan
Sa ganitong kahirapan
Kundi ang naglalagablab
Na pambansang himagsikan.

At kung tayo ay magbangon
Bayan ko, iyong makikita
Kung tanawin mo ang silangan
Unti-unting pumupula.

Ano ang ating katugunan
Sa ganitong panawagan
Kundi ang naglalagablab
Na Pambansang himagsikan.

MANGGAGAWA, GISING AT LUMABAN

Manggagawa, gising at lumaban
Nang makamtan ang kalayaan

Sa pag-aapi ng dayuhan
Ang sagot ng bayan ay himagsikan.

Proletaryo, progresibo
Sa Kilusan alay ang pawis at dugo
Manggagawa at Magsasaka
Lakas ay ang Pagkakaisa
Sa lunsod at bayan, bukid, kabundukan
Handang lumaban para sa kalayaan.

Manggagawa, gising at lumaban
Nang makamtan ang kalayaan
Sa pang-aapi ng dayuhan
Ang sagot ng bayan ay himagsikan.

Sa pang-aapi ng dayuhan
Imperyalistang gahaman
Ang sagot ng bayan ay himagsikan.

(5) "I Challenge This Military Tribunal," by Benigno Aquino, Jr., a portion of which reads as follows:

Consider these indispensable facts

1. I am the only accused who happens to be political rival of your Commander-in-Chief. We have tangled bitterly since 1966. Even from my prison cell, I have denounced his brazen usurpations, his naked power grab before the world press. As early as February 1973 my articles appeared in the *Bangkok Post* and other leading major newspapers in various capitals of the world describing how Mr. Marcos murdered democracy in the Philippines. For these acts, I have been punished with solitary confinement for the last 42 months. I am not allowed to read local newspapers and publications and listen to local broadcasts. I am allowed to be visited only by the immediate members of my family and by two chief counsels.

2. I am the only accused who has challenged Mr. Marcos' acts before the Supreme Court, not once but three times, resulting in three landmark decisions involving the martial law regime. *Aquino vs. Secretary of National Defense*, L-33456, *Aquino vs. Military Commission No. 2*, L-37365, and *Aquino vs. COMELEC*, L-400004.

3. I have never ceased to denounce Mr. Marcos' New Society, its deceits and deceptions, its wicked schemes and sinister designs.

In short, Mr. Marcos whose unextendable term of office was to have ended in 1973, not only used martial law to perpetuate himself and his family in power and thereby accumulate the tremendous, fantastic wealth that unchecked, unrestrained power brings, he used it to persecute me and has appointed you to be my immediate judge.

I must confess to a tinge of sadness. While we Filipinos hold in our weak atrophied hands the riches of our father, we have failed to cultivate the spirit that could have enhanced our sacred heritage of courage and idealisms. Thus, we find ourselves pitifully helpless to rid ourselves of a usurper who abuses our generosity, overstayed his tenure, converted the executive office into an Imperial Magistracy, and has all but crowned himself.

(6) "Political Detainees in the Philippines," by Association of Major Religious Superiors in the Philippines, a portion of which reads as follows:

INTRODUCTION: The Context of the Problem

The imposition of martial law on 21 September 1972 has brought untold sufferings to the Filipino people.

General economic conditions have worsened considerably. The value of the peso today is less than one third of its value in 1969 and prices of basic commodities have spiralled unchecked. The prices of regular gasoline, for instance, has increased by more than 300%. Moreover, the Filipinos today have less control over the national economy than they had before martial law was imposed. Many new multinational corporations have gained a foothold in the Philippines, taking advantage of tax benefits, profit repatriation policies and other incentives. Because the martial law administration raised the minimum capital requirement for commercial banks, most of these banks have been forced to tie up with multinational banking establishments, which now exercise dominance over the finance system.

Government has effectively been restructured, from an elitist democracy where the people at the top took turns wielding political power and gave the nation the illusion of participation by staging electoral contest every two years, to a dictatorship under which all political authority flows from Malacañang, with the assistance and support of foreign advisers and where the people are cajoled into participating in sham referendums. Congress has been abolished by the martial law constitution, the ad-interim National Assembly remains unconvened and the judiciary is fully in the control of Malacañang. The size of the military has been increased four-fold. The higher military officers enjoy today more economic security and political power than they ever had before. Military abuses all over the country continue unabated and the guilty are seldom punished.

All media are controlled by the martial law administration. News is selective and slanted. Contrary political views are not published. The entertainment media continue to play sex crime and violence and fantastic love and success stories distracting people from their sufferings rather than stimulating audience to look critically at harsh social realities. Moreover, educational institutions are dominated by the government, which has ordered curricular changes geared towards assuring multinational corporations a cheap pool of skilled labor, has herded students for beautification projects and has directed the militarization of schools.

Before the imposition of martial law, the Filipino people already suffered: the economy elite, encouraging the limited growth of a subservient middle class, but depriving the lower social classes of decent incomes and opportunities; meaningful participation in government affairs was restricted to the representatives of the wealthy elite; the news and entertainment media were controlled by vested interest more liberal than the present but not genuinely concerned about basic problems of the nation, and most schools were far removed from the nation's root problems and social concern for the oppressed majority. Today the oppression of Philippine society has broadened and deepened.

The industrial and agricultural workers' wages are subhuman. Often the minimum set by law was often violated, and that minimum wage the peso could buy much more (the recent increase in the minimum wage is grossly inadequate). The workers enjoy no job security, and may be dismissed in various ways when they incur the displeasure of management. With the creation of the Trade Union Congress of the Philippines, the big federations have lost whatever independence they had. Local unions are looked upon with suspicion. Strikes in vital industries are banned and the military have been used to break strikes.

(7) "Signs of the Times," dated 9 October 1976, by Association of Major Religious Superiors in the Philippines, a portion of which reads as follows:

Our demand for land and social services has been answered by the martial law government with decrees and instructions which provide the justification for military-led demolition of our houses and eviction of our families to faraway places. Just a few weeks ago, the military demolished the houses of 240 families in the areas of Tondo.

Each time we protest against those inhuman policies and insist on exercising our democratic rights, the martial law government replies with harassment, arrest and incarceration, which incite or tend to incite the people to violence or to disregard, ridicule, defy or ignore lawful orders or acts of the government or its officers or which tend to undermine the integrity or stability of the State or the government.

(8) Mimeographed pamphlet without a title, a portion of which reads as follows:

Woe to the legislators of infamous laws, to those who issue tyrannical decrees, who refuse to the unfortunate and cheat the poor among my people of their rights, who make widows their prey and rob the orphan. What will you do on the day of punishment, when, from far off, destruction comes? To whom will you run for help? Where will you leave your riches?

(9) "Signs of the Times," dated 16 April 1976, a portion of which reads as follows:

More and more, the Philippines under the martial law regime of President Ferdinand Marcos is getting to resemble the Chile of General Pinochet and his junta.

In the Philippines, the Marcos regime flatters the old conservatives in the Catholic hierarchy headed by that unusual prelate Julio Cardinal Rosales. But is increasingly at odds with the articulate better educated and highly sophisticated younger members of the Catholic hierarchy who speaks out against the prison camps, the corruption and violation of human rights.

(10) "Signs of the Times," dated 14 August 1976, a portion of which reads as follows:

In short, Mr. Marcos, whose unextendable term of office was to have ended in 1973, not only used martial law to perpetuate himself and his family in power and thereby accumulate the tremendous, fantastic wealth that unchecked, unrestrained power brings, he used it to persecute me and has appointed you to be my immediate judges.

He has subverted the Republic, installed a dictatorship, scrapped the Constitution, replaced it with a new one that he conveniently ignores, and he now wants you to find me guilty of subversion. He accused me of attempting to overthrow the government and to establish a totalitarian regime. But it is Mr. Marcos who has brazenly disregarded all our constitutional precepts of strict separation of powers among the legislative, executive and the judiciary. It is Mr. Marcos who destroyed the delicate system of checks and balances and concentrated in himself the awesome powers of three separate branches of the government. It is Mr. Marcos who has established a terrible *totalitarian regime* in our country.

(11) "Signs of the Times," dated 30 July 1976, a portion of which reads as follows:

Despite the pretention to enlightened despotism—its claim to be carrying out a revolution from above in the best interests a grateful public—the Marcos regime is in practice a repressive dictatorship. Not only has it silenced dissent, destroyed representative institutions and driven its leading political rivals into exile or jail, it has also failed to perform even its own modest goals for reform.

(12) "Signs of the Times" dated 11 September 1976, a portion of which reads as follows:

A Declaration for Human Dignity at the Polls

For the only too palpable fact is that martial law is a regime of coercion and fear, of institutionalized deception and manipulation; and our people do not enjoy the ordinary human and civil liberties that are basic to the proper exercise of their rights of suffrage and to free participation in governments.

We believe any referendum held under this oppressive circumstance cannot but be a vicious farce. A most unconscionable mockery too of our people's dignity.

This we cannot in conscience be party to. We will not participate in an act that further degrades and debases us and our people.

(13) "A Message of Hope to Filipinos Who Care," dated 10 October 1975, a portion of which reads as follows:

We believe that when a system becomes so unjust and oppressive that more and more people are minded to resist its command, a deliberate and public refusal to obey becomes a supreme act of conscience. A non-violent system of non-cooperation, adequately carried out at the proper time can render the ways of violence unnecessary.

CONTRARY TO LAW

Camp Crame, Quezon City, 20 January 1977.

HERMILO N. AHORRO
Colonel PC (GSC)
Commanding Officer, TF
PAGKAKAISA

SUBSCRIBED AND SWORN to before me this 20th day of January 1977
at Camp Crame, Quezon City

HAMILTON B DIMAYA
Colonel JAGS (PC) GSC
Administering Officer

An In-Depth Inquiry into Human Rights Under Martial Law in the Philippines

By a team of distinguished international Jurists who, over a period of one and a half years, visited Philippine prisoners and detention centers and interviewed political detainees, church leaders, and governmental officials, including President Ferdinand Marcos, the Chief Justice, the secretaries of National Defense and Justice, and the Solicitor General, as well as other non-governmental sources

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William J. Butler — Chairman of Executive Committee of the International Commission of Jurists; former Chairman of Committee on International Human Rights of the Association of the Bar of the City of New York; presently Chairman of Sub-committee on Independence of Lawyers in Foreign Jurisdictions of the American Bar Association

Canada:

Professor John P. Humphrey — Member of the International Commission of Jurists; Professor of Law at McGill University; former Director of Human Rights Division of the UN

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Mr. G. E. Bisson — Chairman of New Zealand Section of the International Commission of Jurists

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