

3

Submitted to Commission 3: *Legal Profession and Independence of Judiciary - Protection of Lawyers*; XVITH Congress, IADL, Paris, June 2005

X-----X

**PHILIPPINES: LAWYERS AND JUDGES UNDER ATTACK,
CIVIL LIBERTIES UNDER SIEGE**

Edre U. Olalia
Convenor and Head, International Affairs Section
Committee for the Defense of Lawyers (CODAL)

NEW WAVE OF ATTACKS ON LAWYERS

There is a very disturbing escalation in violence committed against members of the legal profession in the Philippines recently, targeting especially those servicing the poor and the oppressed. This is akin to the wave of attacks in the 1980s when more than 12 human rights lawyers fighting the dictatorship were killed.

Since January this year, 4 members of the legal profession from different parts of the country have been killed in cold blood, including a lawyer handling cases involving human rights and labor disputes, a public defender handling controversial land and labor disputes, a lawyer counseling for peasant organizations and his son who is also studying law.

Public defender Teresita Vidamo of the Public Attorneys Office was shot on February 9. She was handling controversial land and labor disputes at the time of her death.

Human rights lawyer Felidito Dacut was shot on March 14 by armed men riding in a motorcycle. He was riding a public jeepney to buy milk for his little daughter on his way home from a meeting. Atty. Dacut was the incoming Chairman of the Legal Aid Committee of a local chapter of the Integrated Bar of the Philippines when he was assassinated. He was then handling cases involving human rights and labor disputes.

Atty. Ambrosio Matias who was counsel of peasant organizations was gunned down on May 8 by gunmen who also killed his son who was then a law student.

Eleven other cases of violent attacks, harassment and assassination attempts against other lawyers have also been reported in the first quarter of this year alone.

These include, among others, the ambush by armed men on Atty. Armando Cabalida of the Public Attorneys Office on February 19, resulting in the death of his driver; the serious wounding of human right lawyer Atty. Charles Juloya when he was shot by an assailant on March 22; and the attack against

another human rights lawyer, Atty. Pergentino Deri-on and the burning of his vehicle on May 4.

The assassination attempts against the foremost human rights lawyer in the Philippines, United Nations Judge *ad litem* for the International Criminal Tribunal for the former Yugoslavia - Romeo Capulong - on March 7 and 31 is of particular significance.

Atty. Capulong, founder of the pioneering Public Interest Law Center (PILC), is not a stranger to threats to his life and limb but many of his colleagues and clients correctly consider these the most serious assassination attempts in his professional life.

He experienced intense surveillance after a local command of the Philippine Army looked with disfavor on his legal assistance to the Hacienda Luisita dispute. He has been serving as lead counsel of the victims of the November 16, 2004 massacre of striking farm workers in Hacienda Luisita, a 6,000 hectare farm owned by the family of former President Corazon Cojuangco-Aquino.

The workers' strike, which has been declared a national security problem. by President Gloria Macapagal-Arroyo, has provoked violent reprisals from the Philippine military and the private army of the family of former President Aquino, resulting in the killings of peasant leaders and prominent supporters of the striking farm workers.

Atty. Capulong has been placed in the military's Order of Battle and subjected to continuous harassments, surveillance, and threats, obviously because of his current work for the farm workers in Hacienda Luisita and his consistent work as counsel of victims of human rights violations.

The military recently came up with its notorious '*Knowing the Enemy*' materials, listing progressive political parties, people's organizations, respected church institutions, independent media groups and even liberal lawyers' groups like the Free Legal Assistance Group (FLAG) and even the defunct Protestant Lawyers League of the Philippines (PLL) as so-called enemies or infiltrated by enemies of the state making these organizations targets of military repression. It will not be long before other lawyers' groups who courageously undertake public interest issues and earn the ire of powerful political and economic interests will join the list of '*enemies*' of the state.

Indeed, there have been various harassments, threats and surveillance against lawyers' groups such as the Public Interest Law Center (PILC) and the Pro-People Law Network (PLN) who are involved in controversial land and labor disputes and human rights cases. Their offices and homes were visited by unidentified armed men they suspect to be members of the military.

Just few days ago on June 1, another lawyer in the provinces actively involved in human rights issues and the spokesperson of a local chapter of a

national human rights alliance had been harassed and his law office ransacked by unidentified men.

Many other lawyers in the provinces, particularly in Baguio, Sorsogon, Cebu and Davao experience similar forms of threats and harassment. For being involved in public interest issues, lawyers are being named in the military's security briefing, listed in its order of battle ("O.B.") and receiving death threats causing fear and concern for the lawyers and their families.

BLOODY LIST

The list of killings, harassments, threats, intimidation, labeling, and surveillance of lawyers is long and bloody. These atrocities date back to the Martial Law years when open fascist rule prevailed and when many human rights lawyers also fought valiantly in the hope that we would live in a more democratic, just and free society. But these continue to this day with even more odious brazenness and cruelty.

Most of the victims of these atrocities are those who have defended or sided with the poor and the oppressed, and those who contribute in arousing, organizing and mobilizing the people against injustices in society. And this must be so. As the level of oppression and exploitation increases, the dissent, resistance and struggle in different fora expand. And the corresponding repression escalates.

But there are a number too who have been targets simply because they have zealously handled the private and individual causes of their clients. And there are those who were simply doing their jobs. But all of them were victims mainly or largely because they were exercising their legal profession.

The record in previous years are of no comfort. At least seven members of the legal profession were killed in 2004 including three judges and three women lawyers: human rights lawyer Juvy Magsino (+February 2004), Arbet Yongco (+October 2004), Victoria Mangapit Sturch (+April 2004), Atty. Edgar Calizo (+ November 2004); and Regional Trial Court judges Paterno Tiamson (+ February 2004), Judge Milnar Lammawin (+April 2004) and Judge Voltaire Rosales (+June 2004).

Since 1999, nine judges suffered violent deaths. These attacks on human rights lawyers were common occurrence during Martial Law and thereafter. In the 1980s, FLAG lawyers were gunned down, including Atty. Zorro Aguilar of Zamboanga del Norte (1984); Atty. Romraflo Taojo of Davao del Norte (1985); Atty. Crisostomo Cailing (1985) and Atty. Luisito Villanueva (1986) of Misamis Occidental; Atty. Vicente Mirabueno of South Cotabato (February 1988); Atty. Alfonso Surigao Jr. of Cebu City (June 1988); Atty. Oscar Tonog of Northern Samar (March 1989) and Atty. Gil Getes of Agusan del Sur (March 1990).

Other human rights lawyers like Attys. David Bueno, Ramos Cura and Emmanuel Mendoza were also shot in cold blood one after the other in the

late 1980s. A long history of other threats and harassments against human rights lawyers all over the country ensued over time. . Since 1986, after the overthrow of the dictator Ferdinand Marcos, more than 18 members of the legal profession have been killed.

The more memorable ones was that of prominent labor leader Atty. Rolando Olalia who was kidnapped, tortured and murdered in November 1987 by renegade military men. Crusading journalist Atty. Ferdinand Reyes was also killed in cold blood a few years back.

In 1998 the offices of the PILC was broken into and hard and computer files were taken away. PILC lawyers would invariably experience over the years various forms of harassments and covert and overt surveillance especially at critical junctures of their handling of controversial cases against real estate firms, police, military, and government agencies.

The most heinous attack in recent years was the killing of Atty. Juvy Magsino, the young woman Vice Mayor of Naujan, Mindoro Oriental who was shot several times while on board her vehicle by hooded men, killing her and her companion. The latter was the successor in a local human rights organization of another victim slain in cold blood. Atty. Magsino was obviously liquidated as she run afoul of the military for her human rights work and courageous denunciation of military abuses.

SHOOTING UNARMED CIVILIANS LIKE CHICKENS

The harassment and attacks against lawyers are not isolated cases but represent an ominous trend that forms part of the attack against the people's democratic rights and civil liberties. It aims to terrorize pro-people, progressive and liberal members of the bar and destroy the legal profession's capacity and will to fulfill its sworn obligation under the Code of Professional Responsibility to help in the administration of justice and serve their clients to the fullest of their ability.

Since 2001, 53 leaders and members of the most popular progressive party-list political party in Congress alone have been killed while 14 are still missing. Since President Gloria Macapagal-Arroyo came to power in 2001, 19 human rights workers have been killed in cold-blood, many of them while ironically performing their tasks of documenting human rights violations. Church people have been not been spared. Under the present regime of Arroyo, 6 priests, pastors and lay workers have been killed with attempts on 3 more. Among journalists, 5 have been killed this year, mostly in the rural areas, bringing to 68 the number of those slain since Marcos was overthrown. And of course, various forms of thousands of human rights violations have been brutally unleashed against civilians, mostly poor farmers.

In one central region south of Manila alone, 199 cases of killings, frustrated killings, disappearances, harassments, torture, physical assault, arbitrary arrests and illegal detention of rights advocates, party-list members and

civilians have been documented in the only 4 months an army general notorious for human rights violations was assigned there after wreaking havoc in an island immediately south of Manila.

CONTRARY TO LEGAL PRINCIPLES

Lawyers are required by the Philippine Code of Professional Responsibility for Lawyers (June 21, 1988) to serve their clients to the best of their ability. They should not be threatened or killed for doing their job of prosecuting or defending a legal cause or issue.

Canon 2 of said Code states that a lawyer shall make his legal services available in an efficient and convenient manner compatible with the independence, integrity and effectiveness of the profession. Rule 2.01 further states that a lawyer shall not reject, except for valid reasons, the cause of the defenseless or oppressed.

Canon 14 also mandates that a lawyer shall not refuse his services to the needy. In fact, Rule 14.01 exhorts that a lawyer shall not decline to represent a person solely on account of the latter's race, sex, creed or status of life, or because of his own opinion regarding the guilt of the person. In this regard, Rule 14.04 reminds a lawyer who accepts the cause of a person unable to pay his professional fees should observe the same standard of conduct governing his relations with his paying clients. Indeed, a lawyer shall serve his client with competence and diligence (Canon 18) and that he shall represent his client with zeal within the bounds of the law (Canon 19).

On the other hand, the Philippine Code of Judicial Conduct (October 20, 1989) requires that a judge should uphold the integrity and independence of the judiciary (Canon 1) and that he/she should be vigilant against any attempt to subvert the independence of the judiciary and resist any pressure from whatever source (Rule 1.03).

The 1987 Philippine Constitution proclaims that "free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty." (Article III, Bill of Rights, Section 11)

The attacks against lawyers and judges are attacks against the legal profession as they impact on the independence and integrity of the practice of law.

According to the Basic Principles on the Role of Lawyers, adopted by the Eight United Nations Congress on the Prevention of Crime and Treatment of Offenders (1990) the "adequate protection of the human rights and fundamental freedoms to which all persons are entitled, x x x requires that all persons have effective access to legal services provided by an independent legal profession." Paragraph 18 of the same Principles declares that "lawyers shall not be identified with their clients or their client's causes as a result of the discharge of their functions."

These attacks, therefore, obviously violate these national and international principles and threaten the practice of law and the administration of justice.

Paragraph 16 of the above Principles outline the duty of governments in ensuring the integrity and independence of the legal profession when it required that "governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and consult with their clients freely; (c) shall not suffer, or be threatened with, prosecution or administrative, economic and other sanctions for any action taken in accordance with recognized professional duties, standards and ethics."

These attacks which are done with impunity indicate that the Philippine government has utterly failed to protect lawyers, judges and other members of the legal profession.

In this connection, it is salutary to note that the objectives of the International Association of Democratic Lawyers (IADL), as amended at the XIVth Congress at Cape Town, South Africa include, among others, "ensuring common action by lawyers to defend and promote human and people's rights" and "to struggle for strict adherence to the rule of law and independence of judiciary and legal profession."

IMPLICATIONS

These attacks, if not stopped immediately, will threaten the capacity of lawyers in the Philippines to provide legal services to their clients and the people in general and is an affront to the rule of law. These attacks, reminiscent of the martial law years, have severe implications on the legal profession.

Such brazen attacks undermine the practice of law and the ability of lawyers to fulfill their sworn obligation to serve their clients to the fullest. The capacity of the Philippine legal profession to uphold their Code of Professional Responsibility is diminished when its members face threats by reason of their profession and are paralyzed into playing passive roles instead of vigorously serving their clients and aiding in the administration of justice.

Judges and lawyers are charged with the duty to be vigilant against any attempt to subvert the independence of the judiciary and resist any pressure from whatever source. The recent attacks, however, threaten the independence and integrity of judges and lawyers, thus making the effective administration of justice even more difficult or elusive.

Any attack on lawyers and judges ultimately constitute a threat to the rule of law and the constitutional principle that the maintenance of peace and order, and the sanctity of human life, and the respect for civil, political and other rights are essential to the survival of any democracy.

Unless those involved in the practice of law, especially lawyers, law students and judges condemn these attacks and assert our rights as lawyers and citizens, we will be paralyzed into playing a passive role in the face of mounting violations of the rights of people dissenting against the government's economic and political impositions.

Worse, we will be abdicating our sworn professional duty to protect our clients, help in the administration of justice and assist in the search for truth. We must come to the aid of the people in need of our professional assistance. But we also need to close ranks and come to the aid of our colleagues who are being attacked and silenced from rendering their professional responsibilities to their clients, the courts and the people in general.

Lawyers should not be killed or harassed, whatever side of a legal issue they chose to defend or prosecute. Their capacity to serve their clients and to litigate issues to the best of their ability should not be curtailed by threats and attacks from those who feel threatened by their work. There is a need for those involved in the practice of law to unite and come out to condemn these attacks against the legal profession.

RESPONSES

The active and concrete responses - both national and international - of personages, groups from the bar and bench, people's organizations and solidarity groups to these attacks have been unprecedented. We are heartened by the fact that many lawyers and law students started to speak out and organize themselves.

Due to the escalation of attacks, individual lawyers and law groups banded together and formed the Committee for the Defense of Lawyers (CODAL) on 30 April 2005. CODAL consists of students and members of the faculty of law schools, former public officials and commissioners of government bodies and lawyers doing private practice. CODAL also counts among its members lawyers from law groups which includes the Public Interest Law Center (PILC), Pro-People Law Network (PLN), Pro-Labor Legal Assistance Center (PLACE) and lawyers of peasants from SENTRA.

There is currently a signature drive being conducted by CODAL nationwide through a Manifesto. The Manifesto, signed by both members of the legal profession and the public, will be presented to President Gloria Arroyo on 25 June 2005. The Manifesto has so far been signed not only by members of the legal profession but also by bishops, academics and other concerned citizens. Lawyers from outside the Philippines and members of international organization of lawyers have also signed the Manifesto and signified support for the campaign.

CODAL is actively campaigning against these attacks both in the Philippines and abroad. We at CODAL have banded together to:

1. Document and publish fact sheets containing as much data on these attacks against lawyers.
2. Come out with statements exposing these attacks and calling on members of the bar and law students to join in the campaign to defend lawyers and people's civil and political rights.
3. Form a broad network of lawyers that will plan and coordinate activities for the campaign. The network will be composed of individuals, lawyers groups, law students' organizations and other groups involved in the legal profession.
4. Launch a campaign to bring to the attention of the public, including the international community, these attacks against members of the bar and the legal profession. Disseminate information on these attacks through the media.
5. Provide legal, moral and other support in the investigation of the attacks and the filing of appropriate cases or complaints before courts and international bodies.
6. Link up and network with human rights groups, support groups and international organizations or alliances of lawyers, judges, jurists and law students to generate support for the campaign.

Senators and the local media have joined in denouncing these attacks and have criticized the government's failure to protect the officers of the court. In the international front, lawyers, either in an individual capacity or through their organizations – like the Netherlands-based International Association of People's Lawyers (IAPL), the Brussels and Antwerp –based Progress Lawyers' Network (PLN), the Dutch and Italian chapters of Lawyers Without Borders (LWB) and the IADL itself – have expressed support and solidarity.

These signify that the attacks in the Philippines have caught the ire of the world community of lawyers and judges. It is auspicious then that the IADL is holding its XVIth Congress here in Paris under the very relevant theme of *"Law and Lawyers In the Service of the People for Peace, Justice and Development."*

Around the world, lawyers and judges are expressing alarm at the failure of the Philippine government to protect the safety of members of the legal community, as well as effectively investigate and prosecute the perpetrators. While President Arroyo continues to be silent on this issue, it is heartening that the international legal community however refuses to be silent and instead expresses fraternal support to lawyers and judges in the Philippines.

So far, President Arroyo has not condemned the attacks. She has so far not publicly ordered the authorities to investigate the series of attacks and prosecute the perpetrators. In the light of these, she must be put to task to condemn the parallel attacks against lawyers and the legal profession, and to ensure that these cases are effectively investigated and prosecuted and that the culture of impunity for transgressions on civil liberties be eliminated.

CALL TO ACTION

We lawyers in the Philippines and other members of the legal profession and concerned citizens condemn the rising spate of attacks and harassment of members of the bar and bench, targeting especially those who have taken up the cudgels for the poor and oppressed.

We ask that lawyers, judges and other members of the legal profession condemn these attacks in the Philippines against lawyers in general and human rights practitioners in particular, or their unarmed civilian clients for that matter, as violative of human rights and threats to the practice of law and their duty to the clients, courts, society and in the administration of justice.

We shall welcome any offer to lend assistance, according to its capability and resources, in the investigation of these attacks against fellow lawyers and in the eventual prosecution of the perpetrators of these crimes.

We call for support to the campaign on the attacks against lawyers and judges in the Philippines and to arouse international opinion of this issue and bring it to the notice of the legal fraternity throughout the world.

We call on all members of the legal profession, members of the judiciary and law students to unite in condemning these attacks and to lend assistance in the effective investigation and prosecution of these cases.

We likewise appeal to all concerned Filipinos everywhere and to members of the world community of lawyers and judges to join us in denouncing these attacks and to demand full accountability and justice.

We are willing to discuss proposals for a fact-finding enquiry to be undertaken independently or in cooperation with Philippine and international group of lawyers and the legal profession at the soonest possible time.

We call on you to urge the government of President Gloria Macapagal Arroyo to condemn these attacks and call for the speedy investigation of these crimes and the prosecution of those accused committing the same.

We stand with all lawyers and judges under attack and denounce the other attacks on civil liberties in the Philippines and around the world.

CONCLUSION

Our campaign is not only for the defense of the persons and the profession of lawyers and judges. It is a defense of the administration of justice as they are important components of the law and the legal system -- even as the law is essentially a manifestation of the dominant interests in society. It is also a defense of access by clients to effective legal representation. It is likewise a defense of the imperative for the independence of the judiciary.

But most of all, in a larger context, it is a defense of civil liberties, as the attacks have not only affected the legal profession but have much earlier on targeted and continues to target journalists, church people, human rights workers, activists, peasants and civilians, mostly because of their political beliefs and actions. Through our campaign, we aim not only to sustain and further expand the existing hand of support and solidarity but also to raise the campaign to the overall denunciation of the violations of human rights by state forces and of the unjust social order that is the natural breeding ground of such violations.

The killings continue.

The impunity continues.

The struggle of the people and the defense of the lawyers must, with even greater reason continue.#