

NEPAL: Revolutionary Politics, Feudal Justice

By Marty Logan

IPS, 20 January 2007

KATHMANDU, Jan 20 (IPS) - While former Maoist outlaws have traded battle fatigues for grey suits and seats in Parliament, torture victim Pradesh Bahadur Bista is making the rounds of hospitals for proof that his chronic pains were caused by daily torture during 100 days of illegal detention by soldiers of the Nepali Army.

A lot has changed in the 'new Nepal' that dawned Apr. 25, 2006, the day after King Gyanendra relented in the face of hundreds of thousands of chanting protesters and recalled Parliament -- but a lot has not.

"I don't expect to get compensation for this but I want to punish the perpetrators, who deny doing this to me," says Bista, who was seized from home by plainclothes men as a suspected Maoist on Sep. 10, 2003. For the next 100 days he was held in the army's infamous Maharajung Barracks in the capital Kathmandu, home to the Bhairav Nath Battalion, and tortured almost daily. "I want to see that battalion disbanded," he adds in an interview.

In two weeks Bista will make his seventh appearance in court to try to set that process in motion. Since 2002, just six victims of torture by army or police have been awarded compensation, according to NGO Advocacy Forum, which is assisting Bista.

"Breaking the climate of impunity in Nepal remains the single most difficult human rights challenge," wrote the United Nations high commissioner for human rights in her annual report in October. Louise Arbour arrived in Kathmandu on Friday for a six-day visit to assess the rights landscape since Maoist and government leaders signed a peace deal in November, ending a 10-year insurgency that left more than 13,000 people dead.

It is estimated that tens, if not hundreds of thousands, of people fled their homes after threats from the rebels or government security forces during the decade; no one knows how many were tortured or 'disappeared' -- and few people in power seem prepared to find out.

"There are few signs of the government actively taking steps to effectively end impunity -- institutions haven't been reformed and there is no indication of a change of culture as regards accountability," says Sandra Beidas, chief of protection at the human rights commissioner's Nepal office.

In May her office released a report of its investigation into charges of arbitrary detention, torture and disappearances in 2003-2004 at Bhairav Nath. "Most of the hundreds of individuals who were arrested by the (Army) in 2003 and detained for varying periods in Maharajgunj barracks were subjected to severe and prolonged ill-treatment and torture," it says.

"At least 49 persons, and probably a significantly higher number, remain disappeared. National and international appeals for information and clarification were ignored. Detainees were hidden from inspection," adds the report.

In October, the Secretary of the Minister of Defence told a parliamentary committee the UN report was based on "fallacious accusations". Two of the 49 people named in the UN report had died and 10 were released to their families, he added, but was silent on the 37 others.

Last week the Supreme Court ordered a taskforce probing the disappearances of four people to expand its scope to include the 49 in the report. "It's an important step in the context of almost total impunity but much much more needs to be done," Beidas told IPS. "There are many more human rights abuses that occurred in the course of the conflict and outside the conflict."

On Friday, Bista was at training workshop in the capital learning about the security of human rights defenders, one of 18 people nominated from victims' rights group that Advocacy Forum has helped establish. "Our main goal is to publicise our painful experiences for all Nepalis to see," said Bista, a small, soft-spoken, middle-aged man.

"We also want justice from the government, including compensation for those who are still having health problems...I still have pains in my chest where the soldiers kicked and punched me," he added.

Promises of human rights protection figure prominently in many of the agreements that the government and Maoists signed en route to November's final peace deal. But often they lack the substance needed to fulfil such pledges, according to the UN rights office, while the new Army Act actually makes military courts responsible for torture and disappearance cases. "That's one of our big concerns," said Beidas.

Other worrying signs have emerged about the government's commitment to ending impunity for rights violations. A commission established to probe those responsible for the deaths of protesters in April's 'people's movement' in November named 202 people who should be prosecuted, including King Gyanendra, then government ministers and security chiefs. But it has yet to be made public.

Human rights NGOs have been leading a campaign to pressure the government to sign the treaty that would bind it to the International Criminal Court, whose mandate is to investigate allegations of genocide and crimes against humanity. Parliament in July directed the government to ratify the Rome Statute but it only set up a taskforce, which submitted its report one month ago.

Many activists are looking to a future Truth and Reconciliation Commission, promised in November's Comprehensive Peace Agreement, as an essential step to finally emptying the skeletons in the country's human rights closet. "It can be a crucial step along this process", if done right, said Beidas. That means its mandate must be decided in consultation with victims and their relatives, and its members must be credible and independent.

"But truth commissions themselves cannot substitute for prosecutions of serious human rights violations," she added.

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RI to join global criminal court

Abdul Khalik

The Jakarta Post, 10 February 2007

JAKARTA -- The government and members of the House of Representatives united Friday on the need to ratify the Rome Statute, which serves as the basis for the establishment and operation of the International Criminal Court (ICC).

"We have agreed to ratify it by 2008 and become party to the ICC as scheduled in our national action plan on human rights," said Theo L. Sambuaga, the head of the House of Representatives' Commission I on security and international affairs. He spoke with reporters on the sidelines of a roundtable discussion on the accession to the ICC held by Parliamentarians for Global Action (PGA) in the House of Representatives building Friday.

Speaking before members of PGA, an organization that includes parliament members worldwide, Foreign Minister Hassan Wirayuda underlined the importance of the ICC to human security.

"There is no denying that in recent times, as in the past, rulers, governments or high-ranking officials in command of forces commit crimes against their own citizens, often on a massive scale," he said.

"There is therefore a great need for an avenue of justice ... that is beyond the state itself. Without such recourse to justice, states could simply threaten the human security of their own citizens with impunity," Hassan added.

The only way to prevent such impunity, he said, was a court of justice at the international level, which is provided by the ICC.

International law expert Hikmahanto Juwana of the University of Indonesia, who was also a speaker at the discussion, said the crimes that can be brought before the court fall into four categories: war crimes, crimes against humanity, genocide and crimes of aggression.

Hikmahanto, however, stressed that ratification would not resolve current human rights cases, such as the 1991 Timor Leste massacre or the 1984 killings in Tanjung Priok, because the law is not retroactive.

"So, this will be for crimes after 2008 if we ratify it that year," he said.

Hikmahanto added that a case could be brought to the court if the state in which the crime occurred refused or failed to try the case. The international community could also appeal to the court to try a certain case, he added.

The Rome Statute was adopted and led to the establishment of ICC in July 1998. The court is

based in The Hague, the Netherlands. At present, 139 countries have signed the Rome Statute and 104 have become parties to it. However, several major powers, including the U.S., have refused to be a party to the statute.

"Of course, the U.S. rejection undermines the credibility of the ICC, but we can understand it because the U.S. has projected its power to other countries, such as in Iraq, claiming many lives," Hikmahanto said.

Another lawmaker, Djoko Susilo, said Indonesia should ratify the statute and become subject to the ICC to increase its credibility and add pressure on the U.S. to follow suit.
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A milestone for justice

Editorial

Japan Times, 12 February 2007

In a world where states are sovereign and supreme, international relations are anarchic. Who can call leaders to account apart from their own citizens? The inability to answer that question makes a mockery of the idea of "justice," subordinating the idea to domestic political concerns. The International Criminal Court (ICC) was established five years ago to render "justice" less abstract and eliminate the impunity that political leaders have long enjoyed.

The war crimes trials that followed World War II first focused international attention on the need for a tribunal to deal with war crimes and crimes against humanity. Yet the ICC's birth was possible only after the end of the Cold War. Atrocities that accompanied the chaos in countries such as Cambodia, Yugoslavia and Congo helped make the case for such a court. International negotiations culminated in the Rome Statute of 1998, which established the ICC. The statute became a binding treaty -- and the ICC came into existence -- in 2002 after it was ratified by 60 countries. Today, 104 countries have ratified the treaty, and another 41 have signed without ratifying it.

Last month the court agreed to hold its first trial. Mr. Thomas Lubanga has the dubious honor of being first in the dock. He is charged with recruiting child soldiers during the civil war that raged in the Democratic Republic of the Congo from 1998-2003, during which some 4 million people are thought to have died. Mr. Lubanga is alleged to have "recruited" -- kidnapped -- children as young as 10 and forced them to fight. As the prosecutor explained in a pretrial hearing last year, "Lubanga made children train to kill, Lubanga made them kill and Lubanga let the children die . . . in hostilities."

Mr. Lubanga denies the charges, and counters that he is being made a scapegoat for failing to sell his mineral rights to foreign companies. He is the first ICC defendant, but several other individuals are likely to follow. The court has issued arrest warrants for leaders of the Lord's Resistance Army, who have led an insurgency in Uganda that has claimed tens of thousands of lives over two decades.

The prosecutor is also expected to charge suspects responsible for atrocities in Darfur where at least 200,000 people have been killed and 2.5 million have been displaced in the brutal fighting that has continued since 2003. The Darfur investigation will break new ground if Sudan's leaders are charged, as is expected. It is one thing to go after rebel leaders -- it is quite another to pursue sitting governments.

It is hard to miss that the ICC seems to spend a lot of its time dealing with African atrocities. That is partly a result of the bloody struggles throughout the continent; it also reflects a political judgment by the court that it must establish its credibility and Africa is the place to do so. While more than half the countries of the world appear to have accepted the idea of such a court, resistance in some quarters is still strong -- and the holdouts include the United States, China and Russia.

U.S. opposition has been especially strong. Washington has feared that the court would be used for political prosecutions of its soldiers and leaders. At one point, the U.S. conditioned foreign military assistance on agreements that guarantee U.S. citizens immunity from ICC prosecution. That hardline stand is ironic -- not only because the ICC embodies the objectives and values the U.S. embraces, but also because the negotiations leading to the establishment of the court bent over backward to accommodate U.S. concerns. For example, the ICC can only act when countries themselves are unwilling or unable to investigate or prosecute war crimes and similar offenses; the U.S. has repeatedly investigated, charged and punished such misbehavior by its soldiers.

The U.S. position appears to be changing, however. It no longer punishes ICC members by withholding aid. And the investigation of crimes in Darfur was taken at the behest of the United Nations Security Council, a step the U.S. would have vetoed if it opposed the ICC mandate. Washington did not -- it abstained -- suggesting that it now recognizes the court's utility.

The ICC must now prove its worth. Mr. Lubanga's trial will not begin until next year; other indicted suspects must be captured and turned over to the court. The Darfur indictments must be returned and other governments must respect them. China's response will be especially revealing. Beijing has become a major diplomatic and trading partner of Sudan and has helped shield that government from international censure for its behavior in Darfur.

China will have to choose between its narrowly defined national interest and that of the international system. Will it pick oil or justice? The more difficult China's choice, the more successful the ICC has become.

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Mahathir's war crimes tribunal under fire

Agence France Presse, 13 February 2007

A war crimes tribunal set up by Malaysian ex-premier Mahathir Mohamad was criticised Tuesday by a former United Nations senior official and activists, who say the body lacks legitimacy.

The former United Nations Special Rapporteur on the Independence of Judges and Lawyers, Param Cumaraswamy, said there was no legal basis for the tribunal which would become a "circus".

He also told the local Sun newspaper Tuesday that Mahathir during his tenure as premier had not signed Malaysia onto a statute establishing the International Criminal Court in 1998.

"If he was genuinely concerned about justice to victims of war and bringing war criminals to trial, he should have got the government to sign the statute then. He never bothered," Param was quoted as saying.

"The government to date is not a signatory to the statute," he added.

Mahathir last week launched a war crimes tribunal which he said will focus on victims of abuse in Iraq, Lebanon and the Palestinian territories, saying the existing International Criminal Court in The Hague was biased.

His tribunal carries no legal authority, is not backed by any government and has limited ability to gather evidence or compel accused persons to appear.

However, Mahathir, who has accused British premier Tony Blair and US President George W. Bush of being war criminals, said it will ensure offenders' wrongdoings are recorded in history. Mahathir, who played a high-profile role on the international stage before stepping down in 2003, has seized on the issue of conflict in the Middle East during his retirement.

Param, whose former role was to monitor the independence of judges and lawyers worldwide and report to the UN, questioned how the tribunal would apply fair trial principles if accused war criminals did not appear before it.

Malaysian rights group Suaram said it had concerns over procedures to be used by the tribunal, which will operate outside of the international community.

"There is a whole range of questions over the impartiality of the tribunal and also their credibility, because there are no international processes in terms of agreeing on the basis for the tribunal," executive director Yap Swee Seng told AFP.

"In order to have your moral pressure you have to convince the world the tribunal has the authority, impartiality and credibility," he said.

"But when there is already an International Criminal Court and you are not adhering to that ... I don't think you'll win any credibility," he said.

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Demonstration and Submission of Memorandum to the Speaker of Interim Legislature-Parliament Demanding Accession to the ICC Treaty

INSEC- Nepal Campaign on the ICC press release

Kathmandu, 1 March 2007

Nepali human rights defenders came to the streets once again demanding immediate accession to the Rome Statute of the International Criminal Court (ICC) by Nepal Government. It was seven months after the unanimous approval of a commitment proposal by the House of Representatives (HoR) that directed the government immediately accede to the ICC Treaty on 25 July 2007, human rights defenders reiterated their demands of accession submitting a memorandum to the Speaker of the Interim Legislature-Parliament coincided with the demonstration in Kathmandu on 1 March 2007.

Jointly organised by nine Nepali human rights organisations, human rights activists, journalists, lawyers and intellectuals staged sit-in calling upon the government to fulfill the commitment passed by the parliament. The participants held placards showing slogans like "Accede to the ICC Treaty Now!", "Fight against Genocide, Crime Against Humanity and War Crimes", "Oppose Impunity, Uphold Human Dignity", "We demand Immediate Ratification of the Rome Statute".

Following an hour demonstration, representatives of the organisers submitted a memorandum to Rt. Hon. Subas Nembang, Speaker of the Interim Legislature-Parliament demanding immediate accession to the ICC Treaty. On the occasion Hon. Anand Prasad Dhungana, Hon. Mahendra Prasad Pandey, Hon. Dinanath Sharma and Hon. Tek Bahadur Chokhyal, Chief Whips respectively of Nepali Congress, CPN (UML), CPN (Maoist) and Nepali Congress (Democratic) were also present. Other parliamentarians present while submitting the memorandum to the Speaker include Hon. Parashu Ram Meghi Gurung of CPN (UML), Hon. Ganesh Bahadur Shah of Nepali Congress (Democratic) and Hon. Malla K Sundar of CPN (Maoist).

Receiving the memorandum, Speaker Nembang expressed dissatisfaction over the delay in acceding to the Rome Statute by the government despite the parliamentary directive proposal seven months ago. Assuring that the parliament would take further initiative to push forward this agenda to the levels possible, Speaker Nembang expressed his full commitments for the accession to the treaty.

Organisers of the programmes included Amnesty International Nepal, Federation of Nepalese Journalists (FNJ), National Coalition for the ICC (NCICC)/Informal Sector Service Centre (INSEC), Human Rights and Peace Society (HURPES), Advocacy Forum, Joint Forum for Human Rights (JFHR), Forum for Human Rights and Development (FOHRID), Women Foundation, and Human Development and Peace Campaign (HUDEP).

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Rights groups lament delay in acceding to Rome Statute

Nepalnews.com, 1 March 2007

Various human rights organisations have protested the government's indifference towards acceding to the Rome Statute, the founding treaty of the International Criminal Court (ICC).

Representatives of nine human rights organisations submitted a memorandum to Speaker Subash Nemwang on Thursday urging the parliament to pressure the government to endorse the Rome Statute, which will pave the way for trying individuals accused of human rights abuses and war crimes.

In their memorandum, nine rights organisations including Amnesty International's Nepal chapter, INSEC, Advocacy Forum, Federation of Nepalese Journalists and National Coalition for the ICC, stated that the government failed to accede to the treaty despite the parliament's direction seven months ago to start the ratification process in order to end the culture of impunity.

A government taskforce formed to study the Rome Statute had submitted its report to Deputy Prime Minister and Foreign Minister KP Oli on October 18. Receiving the memorandum, Speaker Nemwang expressed dissatisfaction over the long delay in acceding to the Rome Statute despite the parliamentary order. Saying that the parliament's directions are binding to the government, he said the parliament would take further initiative in this regard. The rights activists had staged protest at Maitighar Mandala before submitting the memorandum.

Few weeks earlier, the Coalition for ICC (CICC) had in a letter to Prime Minister Girija Prasad Koirala urged the Nepal government to ratify the treaty. 104 countries have already joined the ICC, which is the first permanent international court capable of trying individuals accused of crimes against humanity, war crimes and genocide. The CICC is an international network of more than 2,000 non-governmental organisations advocating for a fair, effective and independent court.

The Coalition and its partner organisations Forum Asia and INSEC had jointly organised a mission to Kathmandu in August 2006, meeting with key political leaders who said the government was committed to joining the ICC.

Currently, only six Asian countries-Afghanistan, Cambodia, Mongolia, Republic of Korea, Timor-Leste, and Tajikistan- are state parties to the ICC. In contrast, the majority of states in Africa, Europe, Latin America and the Caribbean have joined the Court.

nepalnews.com
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HR Activists Call to Ratify Rome Statute

The Himalayan Times Daily / THT Online
Kathmandu, 2 March 2007

Human rights defenders and members of civil society on Thursday handed over a memorandum to Speaker Subas Chandra Nembang with the objective of putting pressure on the interim parliament and the government to ratify the Rome statute. They reminded the Speaker that the then House of Representatives (HoR), on July 25, 2006, had issued directives to the government

to ratify the Rome statute.

The memorandum has asked the government to immediately ratify the Rome Statute to ensure that perpetrators are not spared and the culture of impunity is brought to an end. Speaker Nembang assured the delegation of HR rights defenders and members of the civil society that the interim parliament will initiate and remind the government to ratify the Rome Statute, the Amnesty International said in a statement.

Earlier in the day, nine human rights and social organisations organised a corner meeting at the Maitighar Mandala. Members of the civil society and human rights activists took part in the meeting.

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Rights Organisations Urge for Accession to the ICC Treaty

Inseconline.org / Raju Paswan

Kathmandu, 1 March 2007

Various human rights organizations have staged a demonstration at Maitighar Mandala on March 1 urging the government to accede to the Rome Statute of the International Criminal Court (ICC). The participants in the demonstration asked for immediate accession to the Treaty in order to end impunity.

Organizations including Amnesty International Nepal, INSEC, Federation of Nepalese Journalists, Advocacy Forum had organized the program which started at 1 pm and lasted for an hour. After the program, a team comprising members of rights groups and civil society submitted a memorandum to Speaker Subash Nemwang calling for accession to the Treaty.

Although a meeting of the parliament unanimously directed the government to start ratification process on July 25, 2006, no steps has been taken by the government yet.

A report was submitted to Deputy Prime Minister and Foreign Minister KP Sharma Oli on December 14, 2006 by the taskforce formed by the government to study the responsibilities and effects of the Treaty after its ratification in Nepal.

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Rights Activists Tell Govt to End Impunity

THT Online

The Himalayan Times, 26 March 2007

Kathmandu- Maintaining that the government has failed to punish perpetrators of rights abuses, human rights activists on Sunday called the government to end impunity and maintain rule of law in the country.

"The government has been a failure as it has done nothing to punish human rights abusers even after the establishment of loktantra," former member of National Human Rights Commission Sushil Pyakurel said. Pyakurel also asked why the government is yet to sign the statute of the International Criminal Court and take any concrete decision about the disappeared.

He was speaking at a programme organised by the Advocacy Forum where a book on Dark 258 Days written by journalist Jitman Basnet who spent these days in Bhairav Nath Barrack's detention after the royal takeover on February 1, 2005.

Pyakurel also said that the state system including the judiciary is becoming insensitive in punishing the perpetrators of rights abuses.

Another human rights activist Krishna Pahadi flayed the government for not punishing the culprits who abused human rights during the royal take over. He also called for ending impunity. (END)

Inter-Parliamentary Union to send team to Philippines to probe killings

BBC Monitoring Asia Pacific – Political, 26 March 2007

Text of report in English by Philippine newspaper The Daily Tribune website on 23 March [Report by Dona Policar, Gerry Baldo, Benjamin B. Pulta, and Michaela P. del Callar: "IPU Sends Probe Team for RP Political Murders"]

More international pressure has come to bear on President Arroyo and her administration with the Inter-Parliamentary Union (IPU) sending a three-man fact-finding team to the Philippines to look into the unrelenting extra-judicial killings of political activists, journalists, lawyers and church workers.

Almost simultaneously, detained parliamentarian and Deputy Minority Leader Rep. Satur Ocampo, who stands accused by the state of mass murder, has also sent a complaint on his rights violations by the Arroyo government before the United Nations body, specifically to special UN rapporteur, Martin Scheinin.

South Africa's Archbishop Desmond Tutu, a Nobel Peace Prize winner, has also made clear his calls for an immediate end to the Philippine political killings which he denounced.

A Department of Foreign Affairs source said the IPU mission will take place sometime in April. "The issue of political killings has reached international parliamentarians. They have expressed deep concern on this particular matter that's why they are sending a team here next month to investigate and see what's really happening," the source said.

The team will be composed of Senator Rosario Green of Mexico, Senator Sharon Castairs of Canada and Ms. Ingeborg Schwarz, the committee secretary.

"They will talk with the same people and group met by United Nations Special Rapporteur Philip Alston in February although their itinerary is still being finalized," the source said.

IPU is the international organization of 140 Parliaments of sovereign states that include the Philippines. The union is the focal point of world-wide parliamentary dialogue and works for peace and cooperation among peoples and for the establishment of representative democracy.

In a briefing before Philippine diplomats in Makati City yesterday, National Security Adviser Norberto Gonzales maintained that the extrajudicial killings are not a state policy. At the same time, he urged the Filipino diplomats to convey to their host countries that the killings are not sanctioned by the government nor are they being tolerated.

"Political killings in the Philippines are very complicated and unfortunate. But we're happy to note that even international observers who are coming so far found out that this is not a state policy which is really the call of the propaganda being directed towards the government," Gonzales said.

"Definitely it's not a state policy. It's not even an official policy of the Armed Forces of the Philippines or whatever form of policy of the AFP," he said.

Human Rights activist and lawyer Harry Roque, the Genuine Opposition's congressional candidate for Pasay City, told reporters at the headquarters of GO that Mrs. Arroyo can be compared to the likes of Saddam Hussein of Iraq and Chile's Augusto Pinochet with regard to the extra-judicial executions of journalists and activists in the country, saying that "830 people have been killed and she joins the ranks of the Nazis and Sadam. It's an international crime that she can be held liable for, in whatever court...For it involves crimes against humanity," Roque said.

"Crimes against humanity are international crimes and in international law when you commit an international crime, any court in this planet can try you," Roque said, adding that "I would hope that eventually Mrs. Arroyo will be held liable either by a Filipino court, the International Criminal Court or by some foreign court in the exercise of foreign jurisdiction."

He remained optimistic that the wheel of justice will catch up with Mrs. Arroyo, as it did Hussein, Pinochet and Hitler's Nazis. He also warned the President that if she ignores the report of Alston, a special tribunal to try Mrs. Arroyo can be recommended.

The lawyer stressed that President Arroyo has no excuse for extra-judicial killings happening in the country for it is her command responsibility.

GO senatorial bet, Aquilino "Koko" Pimentel, also a human rights lawyer, counted the crimes as more than 838 summary killings of civilians and activists in 75 months or six years under the watch of Mrs. Arroyo.

Pimentel said Mrs. Arroyo cannot dodge from the blame for this reckless abuse of human rights. "We should not forget that Mrs. Arroyo is also the Commander-in-Chief of the Armed Forces and you cannot take away the principle of command responsibility," Pimentel stressed.

Meanwhile, Ocampo's complaint, sent to UN's Scheinin, stated that the Arroyo government has been disregarding the observance of due process and the rights of the accused notwithstanding the passage into law of the Philippine version of the anti-terrorism act, or the Human Security Act on July 2007.

"A clear example is how the government has treated the undersigned...who has been charged with the crime of multiple murders that allegedly occurred in 1984-1985," Ocampo said in his complaint sent through international courier service.

Ocampo also told Scheinin, the circumstances of his arrest on March 16, 2007 at the Supreme Court [SC], after filling a Petition for Certiorari and Prohibition seeking to nullify the fabricated murder charges and the warrant of arrest issued against him on March 6.

Ocampo maintained that the murder case is fabricated and legally infirm. "The arrest order issued against me is a product of the fabrication of testimonies, legal shortcuts, and the violation of my right to due process. It is basically an act of pure harassment because it charges me with instigating the murders in late 1984, 22 years ago when I was in prison under Marcos' martial law regime," the complaint stated.

He said he submitted his counter-affidavit on Dec. 22 2006, stating the fact that I was in detention from Jan. 14 1976 until May 5 1985. He charged that the provincial prosecutor in Leyte had surreptitiously inserted into the information a supplemental affidavit of one of the three key witnesses intended to remedy the flaw in the original affidavits pertaining to the dates he arrived in Leyte saying that instead of 1984, it was in 1985.

Ocampo pointed out that five of the alleged victims of the NPA [New People's Army] whose skeletal remains were found in Barangay [Village] Monterico, Baybay, Leyte, on 27 June 2000 were the same remains found in Mount Sapang, Dako, Inopacan, Leyte on Aug. 26, 2006. "Nowhere in the witness's testimony on the murder case in 2000 was my name mentioned. Yet the same witness now cites me as responsible for the murder of the five (5) victims," Ocampo stated.

He said it is improbable that the remains of the five (5) alleged victims could have been in two mass graves, unless the people behind these two cases simply transferred the remains or recycled the names of the victims.

He said that the Philippines has been beset with political instability, manifested in sustained actions against President Arroyo on charges of corruption, electoral fraud, cover-up of crimes and gross human rights violations.

In a related development, even as the Philippine National Police was ready to again whisk off Ocampo to Leyte, the Supreme Court yesterday ordered Ocampo's continued detention in a Manila jail as the high court deferred the oral arguments earlier scheduled for today.

A ruling by the SC yesterday, in its special en banc session ordered government lawyers to submit their comment on the petition of Ocampo at noon of March 28 and rescheduled the oral arguments for March 30.

Ocampo had asked the High Court to quash the arrest warrant issued against him for multiple murder and to stop the criminal proceedings against him.

In addition, the SC, in its one-page minute resolution, also granted the handwritten request of Ocampo to attend the oral arguments as it ordered the Manila Police District to continue keeping him in custody until further orders of the Court.

It also ordered the MPD to bring Ocampo to the court to attend the oral arguments. Ocampo addressed his request to Chief Justice Reynato Puno.

Aside from Ocampo, the High Court also ordered Hilongos, Leyte Branch 18 Judge Ephrem Abando, Prosecutor Cesar Merin, Investigating Prosecutor Rosulo Vivero and Justice Secretary Raul Gonzalez to attend the oral arguments.

The OSG [Office of the Solicitor General] last Wednesday filed a very urgent motion for reconsideration before the SC.

In its motion, the OSG requested the high court for an extension of 15 days from March 21, 2007 or until April 5, 2007 to comment on Ocampo's petition and a rescheduled date for the oral arguments.

In filing its petition, the OSG said Ocampo's petition "raises several factual matters requiring verification from and coordination with other government offices to ascertain their veracity."
Source: The Daily Tribune website, Manila, in English 23 Mar 07
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Ratify Rome statute immediately, say experts nepalnews.com, 30 March 2007

Experts have stressed the need to immediately ratify the Rome Statute of the International Criminal Court (ICC) to end the trend of impunity in Nepal.

Speaking at an interaction organised by National Human Rights Commission and supported by CDNHR/UNDP, in the capital on Friday, they urged the government to immediately ratify the statute to show the government's commitment towards protection and promotion of human rights.

Former Justice of the Supreme Court, Laxman Prasad Aryal said that as Nepal has expressed its commitments for the protection and promotion of human rights by ratifying various international statutes in the past, it should not delay in ratifying the 'Rome statute' to make all violators of the human rights accountable.

Aryal, who was also the coordinator of the interim constitution drafting committee said that though they had put a provision for ending impunity in the draft of the interim constitution, the eight political parties had deleted the provision later while promulgating the interim constitution. He alleged that both the government and the Maoists are not willing to ratify the Rome Statute as both the parties were involved in rights violations in the past.

Also speaking at the same programme, Resident Representative of United Nations Development Programme, Matthew Kahane said that signing of Rome statute would be helpful for the protection and promotion of human rights.

He also lauded the role played by NHRC, the national rights watchdog even in the absence of commissioners.

President of Nepal Bar Association Bishwo Kant Mainali, rights activist Shova Gautam and Acting Secretary of the NHRC, Dhruva Nepal have urged the government to immediately ratify Rome statute.

On July 25, the reinstated House of Representatives had passed a resolution directing the government to ratify the ICC Rome Statute expressing firm commitment against all forms of crime against humanity.

International Criminal Court (ICC) is an independent, permanent court that tries persons accused of the most serious crimes of international concern, namely genocide, crimes against humanity and war crimes. The ICC is based on a treaty, joined by 104 countries.

In all of its activities, the ICC observes the highest standards of fairness and due process. The jurisdiction and functioning of the ICC are overned by the Rome Statute and applicable to the countries, which have ratified the Rome Statute.

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Promulgate Rome Statute: Human Rights Activists

<http://www.kantipuronline.com/kolnews.php?&nid=105131>

Kantipuronline, 30 March 20076

"LALITPUR - Human rights activists and law experts Friday urged the government to immediately promulgate the Rome Statute of the International Court of Criminals (ICC) to end all kinds of crime and the state of impunity in the nation.

In a programme organized by the National Human Rights Commission (NHRC) and International Committee of Jurists (ICJ) in Lalitpur, United Nations Development project (UNDP) resident representative Matthew Kahane, Assistant Justice Laxman Prasad Aryal, Chairman of the Nepal Bar Association Bishwakanta Mainali and Shubha Gautam from Human Rights Communication Academy, among others said that the promulgation of the statute would mean a positive leap in control of crimes in the nation.[...]"

Aryal shocked at missing clause

Himalayan News Service

The Himalayan Times, 30 March 2007

"Kathmandu, March 30: Former Supreme Court (SC) justice and chairman of the interim constitution drafting committee, Laxman Prasad Aryal, today expressed "shock" over the "disappearance" of a clause on ending impunity in the final interim constitution.

'While drafting the interim constitution we had included a clause on ending impunity. We had thought that impunity would now come to an end. But the exclusion of the clause in the final draft came as a surprise,' Aryal told a workshop jointly organised by the International Court of Jurists (ICJ) and the Capacity Development of National Human Rights Commission (CDNHRC).

The workshop was aimed at increasing awareness among human rights defenders on the Rome Statue of the International Criminal Court (ICC) and to lobby for its ratification by the Nepal government.

[...]"

Amend Rome Statute

<http://www.kantipuronline.com/kolnews.php?&nid=105141>

The Kathmandu Post, 31 March 2007

"LALITPUR, March 30 - Human rights experts urged amendment of Rome Statute to curb impunity in the country amid a function on Friday.

Speaking at a workshop on International Criminal Court (ICC) and its usefulness, jointly organized by National Human Rights Commission (NHRC) and International Commission of Jurists (ICJ), former supreme court justice Laxman Prasad Aryal said the Rome Statute and ICC are very essential for rule of law in Nepal. [...]

"Chairman of Nepal Bar Association Bishwokanta Mainali opined that establishment of ICC is a significant achievement in the history of mankind in curbing crimes. [...]"

EU presses RP gov't to ratify Rome Statute

Michaela P. del Callar

Tribune, 13 April 2007

The European Union is again pressing the Philippine government to ratify the Rome Statute to hasten the effective functioning of the International Criminal Court (ICC).

Ambassador Alistair Macdonald, head of the delegation of the European Commission (EC) in the Philippines, said the EU wants the ICC implemented in the country.

“It’s not an issue that we should be impatient about, but we want to see the Philippines sign it,” Macdonald said in a chance interview on the occasion of the EU’s 50th anniversary.

While he noted the ratification of the ICC is not a prerequisite to the signing of a free trade pact with the EU, another EU diplomat, speaking on condition of anonymity, reminded that part of the proposed Partnership Cooperation Agreement with the Philippines, which is on the initial stage of negotiations, are protection of human rights and the country’s implementation of the ICC.

Under the Rome Statute, the ICC will have jurisdiction over perpetrators of genocide, war crimes, and crimes against humanity — offenses that threaten the peace, security, and well being of humankind — including some acts which may be characterized s terrorism, as well as aggression.

But the Philippine military and police have expressed reservations to the treaty’s ratification, saying leftist groups may take advantage of the treaty.

The military has aired apprehensions that leftist groups could file frivolous and politically motivated cases against them once the the government becomes a signatory to the treaty.

The United States has also stood opposed to the treaty because any American prosecuted by the international court will be denied procedural protection to which all Americans are entitled under the Bill of Rights of the US Constitution.

Washington has even threatened to cut military assistance to countries that will ratify the statute. To apparently circumvent the treaty and to give them immunity from prosecution by the ICC, the US, in 2003, forged an executive agreement with the Philippines on the mutual non-surrender of each other’s citizens, whether they be civilians, military personnel or government officials, who have been charged with crimes against humanity to third parties.

Despite the signing of the immunity accord with the US, the Philippine government still refuses to transmit the instruments of ratification to the Senate, seven years after Manila signed the statute in 2000.

The EU, through EC, had been reaffirming its commitment to pursue its worldwide campaign toward the universal ratification of the Rome Statute, which entered into force in July 1, 2002. The EC’s Initiative for Democracy and Human Rights has provided over €20 million since 1995, mostly through civil society organizations for projects aimed at supporting the international criminal justice system.

In February 2004, the EU developed an action plan on the ICC, detailing a wide range of the Union’s initiatives to support the court.

The plan envisages that the EU, among others, mainstreams the ICC in its political dialogues with third countries, and integrates an ICC clause into the negotiations of external agreements.

In addition, the EU is committed to support the strengthening of domestic judicial capacities, in countries where the ICC has commenced investigations, to ensure that local jurisdictions are able to deal with crimes covered by the court.

(END)

End Impunity

Gorkhapatra - Kathmandu, Nepal (Editorial), 26 April 2007

THE United Nations Office of the High Commissioner for Human Rights (OHCHR) has expressed satisfaction over the efforts of the government to improve the human rights situation in Nepal after the success of Jana Andolan II last year. Issuing a statement on the occasion of the first anniversary of the April Uprising that restored democracy and human rights, the OHCHR has demanded that those who were responsible in suppressing the people's rights should be punished to end the culture of impunity in Nepal. It is absolutely true that the culture of impunity must end, and all those responsible for human rights abuses must be brought to book. The tendency of impunity has continued in Nepal, which is one of the reasons for human rights violations at different times.

After the 1990 political change, there had been a demand from human rights activists and civil society members to punish those who suppressed the people's movement and violated the rights of the people. The Mallik Commission, the panel formed to investigate the atrocities during the 1990 movement, had clearly pinpointed at some people responsible for violating human rights, and had recommended necessary action against them. However, the governments formed after the 1990 political change could not take any action against them. These people again became active during the king's authoritarian regime and suppressed people's rights. Had action been taken against those pinpointed by the Mallik Commission, the king would not have dared take over power.

We must now learn lessons from the past. The Rayamajhi Commission has also found some people guilty of suppressing the movement last year and violating human rights. Thus, it is necessary that action be taken against them so that the culture of impunity is ended once and for all. All previous atrocities and human rights violations must be thoroughly investigated and action taken against the culprits. Against this background, there has been a demand for the ratification of the International Criminal Court, which is popularly known as the Rome Statute that deals with investigation into the atrocities perpetrated on the people and punishment for the perpetrators. Nepal so far has not ratified the Rome Statute, as a result of which the international criminal investigation body has not been authorised to probe crimes against humanity and book the culprits as per national as well as international humanitarian and criminal laws in Nepal. Now this treaty needs to be ratified as early as possible. Although there has been marked progress in the human rights situation after the establishment of Loktantra, Nepal, as stated by the OHCHR, needs to be done to institutionalise these achievements on the human rights front.

(END)

Freedom House Report:

Rights group says NKorean leader should be tried for alleged human rights abuses

Associated Press Worldstream, 21 May 2007

“North Korean leader Kim Jong Il should be tried in an international tribunal for alleged crimes against humanity in his country's harsh political camps, a human rights activist said Monday.

Kim "should be tried in some kind of international criminal tribunal," Thomas O. Melia, deputy executive director of Freedom House, said as his organization released a new report detailing alleged crimes against humanity in the North.

Melia said a special tribunal could be created outside of the International Criminal Court as in the case of Rwanda, where genocide occurred in 1994. But he called for proper investigation to determine individual accountability for the alleged crimes in North Korea.

Freedom House is a New York-based private democracy watchdog.

North Korea insists it does not violate human rights, but it has long been accused of imposing the death penalty for political reasons, holding thousands in prison camps, torturing border-crossers, and severely restricting freedom of expression and religion.

Kim, 65, wields absolute power in the communist state and crimes against humanity murder, kidnap, rape, extermination of individuals in prison camps can't take place without his knowledge or direction, Melia said.

But there are some obstacles in bringing Kim to justice, according to Freedom House, such as U.S. opposition to participating in the International Criminal Court.

The Rome Statute for the International Criminal Court came into force in 2002, making crimes committed after that date eligible to come under the court's jurisdiction, Freedom House said.

David Hawk, a human rights advocate and author of the report, said it is too early to say whether Kim could be tried in an international tribunal as more evidence is needed to prove crimes were committed after 2002.

He also said an independent prosecutor would have to decide who was responsible for the alleged crimes.

Among the crimes detailed in the report include alleged "enforced disappearance" of people accused of dissent to political prison camps, where they may be subject to beatings, torture and rape.

Contributors to the report included a prominent defector, Kang Chol Hwan, who met U.S. President George W. Bush in 2005 to discuss his memoir of growing up in a North Korean prison camp.

"The North's prison camps are the same as Auschwitz," Kang said, referring to the notorious World War II death camp in Poland run by the Nazis.

Kang said that the international community needs to apply strong pressure to force North Korea to improve its dismal human rights condition."
(END)

NKorea inmates face inhumanity in labour camps: report

Agence France Presse, 21 May 2007

"Political prisoners held in North Korea's work camps are sometimes forced to defile the bodies of public execution victims, a study by a US-based rights group said Monday.

The report by Freedom House concludes that the camps breach almost every definition of crimes against humanity under modern international law.

"The phenomena of repression associated with the political prison camp system of (North Korea) are clear and massive crimes against humanity as now defined in law," said the report written by David Hawk.

It said prisoners who break camp rules, mostly by stealing food, or who try to escape are executed by hanging or firing squad, usually in public.

In the study, former prisoners recalled compulsory gatherings for executions as "the most sickening experience in the camps," the report said.

In some cases prisoners were compelled to stone or strike the corpse to rob the victims of dignity and instill fear in remaining inmates, it said.

The report estimates that up to 200,000 people, including offenders and up to three generations of their family, are held without trial and subjected to forced labour under extremely severe conditions.

Freedom House's findings were based on interviews in South Korea with former northern prisoners who escaped or defected after their release.

Among other abuses, it said, camp officials and guards are regularly able to have sexual relations with female prisoners under circumstances judged to constitute rape or sexual violence.

Prisoners "are subjected, usually for a lifetime, to forced labour under extremely severe circumstances, beginning with the provision of below-subsistence level food rations."

Inmates were regularly subjected to beatings and sometimes more systematic torture for breaking minor regulations.

The high rates of deaths in detention from malnutrition, starvation, exhaustion from forced labour and disease "would likely be deemed by legal scholars and judges to constitute the crime of humanity of extermination, the report said.

Prisoners were forbidden to have sex "because it would give rise to another generation of counter-revolutionaries," a former inmate was quoted as saying.

Freedom House, meanwhile, said a successful conclusion to six-nation negotiations on scrapping North Korea's nuclear programme could open a channel for dialogue with Pyongyang on human rights.

But if the North refuses to improve its record, the report raises the prospect of the UN Security Council referring it to the International Criminal Court.”
(END)

Protest to Demand Accession to Rome Statute and CAT Optional Protocol

Reprinted/ used in several newspapers

<http://www.inseconline.org/news>

INSEC/ NCICC Nepal report / Raju Paswan, 9 June 2007

Kathmandu- Human Rights organizations have organized sit-in and protest programme in Kathmandu on 8 June demanding the state to accede to Rome Statute of the International Criminal Court and the Optional Protocol to the Convention against Torture.

Addressing the programme, former NHRC commissioner Sushil Pyakurel stressed on the need to end impunity and the need to democratize Nepal Army. He criticized the government for failing to accede to the Statute even after the unanimous approval of a commitment proposal by the House of Representatives (HoR) that directed the government immediately accede to the ICC Treaty nearly a year ago.

Another Human Rights Activist Krishna Pahadi also demanded accession to Rome Statute to the end the rampant impunity in the country.

National Coalition for the ICC (NCICC), INSEC and FOHRID among other organizations had organized the protest programme.

Govt dragging its feet on ratifying int'l conventions

by Ananta Raj Luitel

The Himalayan Times Daily, 17 June 2007

Kathmandu: The government is yet to take initiatives to endorse several international conventions and treaties in various sectors even after the Parliament has passed several commitment proposals directing the government to ratify them.

The revived House of Representatives and the Interim Parliament had issued several directives in the name of the government to ratify the UN Convention Against Corruption, the statute of the International Criminal Court and several other conventions on women rights issues. However, the government has not taken any step regarding the issues or at ratifying them.

The government has also not shown any keen initiative to endorse other conventions like the demand of human rights activists who have been demanding ratification of the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment and its optional protocol to pave the way to mete out punishment to those who indulge in torture in detention centres.

The Parliament has passed 12 commitment proposals till date, but the implementation ratio is poor as only a few of them have been implemented.

The government has placed a few proposals to ratify international conventions before the House.

The government's has shown a disinterest to endorse such conventions even after parliamentary directives based on commitment proposals. Such commitment proposals were registered by MPs, and later the House issued directives to the government to work in this sector. According to Article 156(2) of the Interim Constitution of Nepal, 2007 such treaties and conventions are needed ratification of, accession to, acceptance of or approval of by a simple majority of the Parliament.

Such international treaties would be a part of our legal system after their ratification because our Treaty Act of 1990 has accepted international conventions as the part of our legal system. If provisions of domestic laws are in contradiction to the provisions of international conventions and treaties (after their approval and ratification), the provisions of the international conventions will prevail.

The Parliament had directed the government to sign the UN Convention Against Corruption and Statute of International Criminal Court, which is also known as the Rome Statute. The civil society has been demanding the ratification of CAT and its optional protocol in order to end impunity in the country, based on which if anyone is involved in torturing a Nepali, even in foreign territories, then s/he would be liable for punishment.

However, the Convention on the Non-Applicability of the Statutory Limitation to the War Crime and Crimes Against Humanity is pending at the House, which was placed by the government some two months ago.

According to a survey, 79 per cent inmates out of a total 7,000 prisoners across the jails in the country have said that they suffered torture in detention centres during the royal regime. However, the ratio of punishment to the accused is low. Though the exact number of disappearances in the country is not known, it is estimated that more than the whereabouts of 900 persons is still unknown after they were taken into custody. Nevertheless, there has been no initiation to punish the security personnel involved in such a crime.

Human rights activists have been saying that the state of impunity would be lifted if the government signs the CAT; and the corrupt would be brought under the ambit of the

Commission for the Investigation of Abuse of Authority if the government signs the UN Convention Against Corruption. Failing this, there are no possibilities to bring the corrupt who are depositing cash in foreign banks to justice.

Regarding the recent verdict of the Supreme Court on disappearances cases, the ratification of such international treaties and convention is needed. The apex court has directed the government to punish the perpetrators who were involved in such a crime ensuring the rights of the people, which is the responsibility of the state. The verdict issued by Justices Khil Raj Regmi and Kalyan Shrestha is a suitable example of the domestication of international laws.

Subodh Pyakurel, human rights activist, said that the government is not serious about agenda that are put up by the people and that the government is not really representing the people's will.

"They have no time to think about other things as they have been playing power games and passing declarations," Pyakurel added.

(END)

'Either knew or... should have known'

Column: Passion for Reason / By Raul Pangalangan
Philippine Daily Inquirer, 29 June 2007

MANILA, Philippines -- When it comes to extrajudicial killings, there is a tendency to confuse and conflate two different kinds of international responsibility. The more traditional is called "state responsibility," by which the government is blamed, and the newer form is "individual criminal responsibility," by which certain military officials (or for that matter, armed rebels) may be punished. Either way, the President may be held to account, whether as head of state under state responsibility, or as commander in chief under individual criminal responsibility.

State responsibility is governed by the International Law Commission's Articles on State Responsibility. A government is responsible for the "conduct of any State organ [whether] legislative, executive, judicial or any other function, whatever position it holds in the organization of the State, and whatever its character." Just in case Malacañang is minded to wash its hands by saying that private militias did the dirty job, the ILC says that such acts shall still be attributed to the state "if the person or group of persons is in fact exercising elements of the governmental authority in the absence or default of the official authorities and in circumstances such as to call for the exercise of those elements of authority."

Finally, in the event that the Philippine government thinks it can just look the other way, the International Court of Justice most recently held the Serb government responsible for failing to prosecute the genocidal maniacs who conducted the ethnic cleansing against Bosnian Muslims (and that is after the Court had earlier said -- in a disappointing copout -- that it had no evidence showing that the Serbs directly ordered the genocide).

Moreover, as I have earlier written, the “Who, me?” defense embraced by Malacañang had been thrown out by the Inter-American Court of Human Rights when it held Honduras responsible for the disappearance of a student activist at the National Autonomous University of Honduras. “Those disappearances followed a similar pattern, beginning with the kidnapping of the victims by force, often in broad daylight and in public places, by armed men in civilian clothes and disguises, who acted with apparent impunity ... The disappearances were carried out in a systematic manner [especially considering that the] victims were usually persons whom Honduran officials considered dangerous to State security.”

The Court said that the state’s obligation under the human rights covenants is not just “to respect” human rights but “to ensure [these rights] to all individuals within its territory....” “What is decisive is whether a [disappearance] has occurred with the support or the acquiescence of the government, or whether the State has allowed the act to take place without taking measures to prevent it or to punish those responsible.”

On the other hand, the most authoritative definition of an individual’s “command responsibility” is laid out in the 1998 Rome Statute of the International Criminal Court, which in relevant (but not all) aspects codifies the classic concept of “command responsibility” that the world first saw in the case of the famous Gen. Tomoyuki Yamashita. As professor Harry Roque, director of the UP Institute of International Legal Studies, has emphasized in his many lectures here and abroad, “command responsibility” arose from a Philippine case, the “Rape of Manila” during the last few days of the Liberation, when the Japanese troops went on a rampage against civilians, most terribly in the area of the old UP campus in Padre Faura.

Although the Philippines has signed, but not ratified, the Rome Statute, the Philippines has ratified the 1969 Vienna Convention on the Law of Treaties, which imposes an obligation of “good faith” to abide by a treaty’s “object and purpose” during that interregnum between signing and ratification. Of course, Malacañang is suspect from yet another angle. You see, President Joseph Estrada signed the Rome Statute before he left Malacañang, but President Gloria Macapagal-Arroyo has since sat on the Statute and refused to forward it to the Senate for ratification, thwarting a procedure laid out in the Constitution.

Moreover, the Rome Statute’s codification of “command responsibility” is widely seen as an authoritative restatement of what is called “customary international law,” which under the Philippine Constitution’s “incorporation clause” is deemed “part of the law of the land.” Read Article 28, titled, “Responsibility of commanders and other superiors.” It anticipates every possible defense by dastardly governments.

The test is that the commander “either knew, or owing to the circumstances at the time, should have known that the forces were committing or were about to commit such crimes.” A commander is responsible not just if he had “effective command and control,” but also if he “failed to exercise control properly” or “consciously disregarded information which clearly indicated” that the crimes were being committed. Also, international law has declared obsolete the doctrine of head-of-state immunities for humanitarian law violations. The Rome Statute

declares that “official capacity as a Head of State ... shall in no case exempt a person from criminal responsibility under this Statute.”

Finally, a commander is responsible for “fail[ing] to take all necessary and reasonable measures within his or her power to prevent or suppress their commission or to submit the matter to the competent authorities for investigation and prosecution.”

I sat as member of the drafting committee of the Rome Statute in 1998. I couldn't have imagined that the “her” would become so apt nine years later.

(END)

The Yamashita Doctrine

Column: Sounding Board / By Fr. Joaquin G. Bernas, S.J.

Philippine Daily Inquirer, 9 July 2007

MANILA, Philippines - When the name Yamashita appears in media these days, what usually comes to mind is the elusive Yamashita gold. But there is more to the Yamashita name than gold. More important for our age of terrorism and extrajudicial killings is the doctrine that was accepted in the prosecution of Tomoyuki Yamashita, the commanding general of the 14th Area Army of Japan operating in the Philippines during World War II. The decision in the prosecution of General Yamashita established the doctrine of "command responsibility" of military commanders. When you consider that Yamashita was the highest ranking military officer of the Japanese armed forces in the Philippines, you can imagine the possible implications the doctrine can have on the current situation in the Philippines. True, the Yamashita case was prosecuted under military and not civilian law; but at the heart of the case was the responsibility of the military commander for the actions of the soldiers under his command.

It is not as if the foundation of the Yamashita prosecution was a novel discovery. The ancients had known about it long before. As Justice Perfecto said in 1945 in *Yamashita v. Styer*: "Many of the basic ideas which prevail today in the customs and usages of nations and which have become part of the international law emerged from the human mind centuries before the Christian era." Even the doctrine of command responsibility itself is of ancient origin. Sun Tzu recognized it in his sixth century classic *The Art of War*, and the Holy Roman Empire applied it as early as 1474.

The modern doctrine of command responsibility began to be defined more clearly in the Tribunal decision on the case of Yamashita. Simply put, military commanders are responsible for war crimes committed by subordinate members of the armed forces or other persons subject to their control. It is essentially an omission offense, that is, a failure of the commander to prevent or punish subordinates for their unlawful acts.

Necessarily therefore it supposes some degree of knowledge on the part of the commander. But what degree of knowledge is required? Certainly actual knowledge can be the basis of punishment of the commander. But can something less be the basis?

The lesser degree of knowledge is referred to as "constructive knowledge." After World War II two different degrees of constructive knowledge have been espoused by those who write about command responsibility. The stricter formulation says that "the commander should, in the circumstances, have known of his subordinates' unlawful actions, thereby placing him under a proactive duty to keep informed of troops' activities." But a less strict standard would hold a commander responsible "only where he fails to discover his subordinates' actions from information already available to him."

What standard was followed in the Yamashita case?

Yamashita was charged with "unlawfully disregarding and failing to discharge his duty as a commander to control the acts of members of his command by permitting them to commit war crimes." The Tribunal found him guilty for having made no effective attempt to discover and control the criminal acts in the context of widespread vengeful actions of the soldiery. Authors are divided on whether what was used was the strict standard or the more lenient standard. But some also read the Yamashita decision as saying that the commander "should have known." Thus the debate on the degree of knowledge required for conviction continues.

Additional Protocol I of the Geneva Convention now addresses the knowledge factor by defining command responsibility thus: "The fact that a breach of the Conventions or of this Protocol was committed by a subordinate does not absolve his superiors from 'responsibility' if they knew, or had information which should have enabled them to conclude in the circumstances at the time, that he was committing or about to commit such a breach and if they did not take all feasible measures within their power to prevent or repress the breach."

All this, however, is about command responsibility in the context of conventional wars. Does the doctrine have applicability on the war on terror and can it reach military commanders in time of peace?

The International Criminal Tribunal for Yugoslavia (ICTY) says that the fact that crimes "were committed by a subordinate does not relieve his superior of criminal responsibility if he knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators."

Under the Rome Statute of the International Criminal Court, military commanders can be held responsible for the crimes of subordinates if they "either knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes."

Although the Philippines, following the lead of George W. Bush, is not a party to the Rome Treaty, we do accept the doctrine of command responsibility of military commanders. This is clearly stated by Gen. Hermogenes C. Esperon Jr. in an order released on February 4, 2007. To date, however, the military command has professed no knowledge of military responsibility for extra-judicial killings and other human rights violations.

(END)

More about command responsibility

Column: Sounding Board / By Fr. Joaquin G. Bernas, S.J.
Philippine Daily Inquirer 16 July 2007

MANILA, Philippines -- Last week I defined command responsibility simply as the responsibility of military commanders for war crimes and abuses committed by subordinate members of the armed forces or other persons subject to their control, and as essentially an omission offense, that is, a failure of the commander to prevent or punish subordinates for their unlawful acts.

Recent jurisprudence, especially decisions arising from trials of commanders under the International Criminal Tribunal for the former Yugoslavia (ICTY), has attempted to refine the requirements for command responsibility on the basis of Protocol I to the Geneva Conventions. Decisions enumerate three elements, namely (i) the existence of a superior-subordinate relationship; (ii) that the superior knew or had reason to know that the criminal act was about to be or had been committed; and (iii) that the superior failed to take the necessary and reasonable measures to prevent the criminal act or punish the perpetrator.

What do these elements mean?

First, what must the superior-subordinate relationship be? The superior can be military or civilian. The authority can be *de jure* or *de facto*. It was necessary to state this in the ICTY cases because in conflict situations, such as in the former Yugoslavia where formal structures of command had broken down, those who were effectively in command with power to prevent and punish crimes committed by persons under their control but without formal appointment, could be held responsible for failure to do so.

Second, what must the mental state of the superior be? The Trial Chamber in the ICTY cases held that a superior possesses the necessary knowledge to incur liability where: "(1) he had actual knowledge, established through direct or circumstantial evidence, that his subordinates were committing or about to commit crimes referred to under Article 2 to 5 of the Statute, or (2) where he had in his possession information of a nature, which at least, would put him on notice of the risk of such offenses by indicating the need for additional investigation in order to ascertain whether such crimes were committed or were about to be committed by his subordinates."

A Commission of Experts explained further that the commander's state of knowledge could take one of the following forms: "(a) actual knowledge, (b) such serious personal dereliction on the part of the commander as to constitute willful and wanton disregard of the possible consequences, or (c) an imputation of constructive knowledge, that is, despite pleas to the contrary, the commander, under facts and circumstances of the particular case, must have known of the offenses charged and acquiesced therein."

The third element requires personal dereliction on the part of the superior. A legal duty rests upon all superiors to take all necessary and reasonable measures to prevent the commission of offenses or to punish perpetrators. But superiors cannot be held responsible for having failed to do the impossible.

All this is now part of customary international law for situations of either international or internal conflict. And since the Philippines, through its Constitution, adopts the generally accepted principles of international law as part of the law of the land, this customary law is now part of domestic law. Thus, in the context of the current continuing internal conflict, can this be the basis for instituting prosecution of superiors whose subordinates may be found responsible for extra-judicial killings and other military abuses?

Experts on criminal law and procedure can probably make a case for prosecuting on the basis not only of current international law jurisprudence but also on some penal provisions in our system. Moreover, one of the reasons the Chief Justice has for calling the current Summit on extra-judicial killings is for people to get together to look into the possibility of reformulating the Rules of Court to enable government to give greater protection to human rights. There is, after all, in the Constitution a provision rarely adverted to which says that the Court shall promulgate rules "concerning the protection and enforcement of constitutional rights." As Commissioner (now Justice) Adolf Azcuna and former Chief Justice Roberto Concepcion said during the deliberations of the Constitutional Commission, this provision, not contained in previous Constitutions, has been added to emphasize "that constitutional rights are not merely declaratory but also enforceable."

Recently the Supreme Court set up special courts to hear, try and decide cases involving killings of political activists and members of the media. If these courts are to apply the principle of command responsibility, what would they need? The cases that will come to them will not be bread and butter cases they are used to dealing with. When you consider how contentious our society is, efforts should be made to facilitate the work of judges. This can be done through clearer guidelines added to the current Rules of Court and especially through a bill more clearly implementing command responsibility. I suggest that the President be urged to certify such a bill as urgent. Moreover, it may also be necessary to review the current Military Code to make sure that it incorporates command responsibility as it stands in current humanitarian law jurisprudence.

(END)

HEED THE CALL FOR JUSTICE

Statement on the occasion of the 9th Year of the Adoption
of the Rome Statute of the International Criminal Court
17 July 2007, Manila, Philippines

Today, we celebrate World Day for International Justice to commemorate the 9th year of the adoption of the Rome Statute that created the first permanent and independent judicial body, the International Criminal Court that would prosecute crimes of the most serious nature -- genocide, crimes against humanity, war crimes and, once defined, the crime of aggression. Considered a landmark in the history of international law, the ICC now stands as the most important mechanism for human rights protection and justice for victims of the most grievous international crimes.

This year's celebration of World Day for International Justice is especially significant for Asia, the least represented region in the ICC together with the Middle East. Japan is depositing today its instrument of ratification making it the 105th state party to the International Criminal Court treaty, the 6th among Asian countries to join the ICC. With ongoing processes in countries like Laos, Nepal, Indonesia, Vietnam and China, Asia is finally joining the world in marching toward universal ratification of the Rome treaty.

While a number of Asian states face difficult circumstances that delay or prevent them from joining the ICC, the peoples of Asia support the universal ratification of the ICC. The victims of horrendous crimes committed in the past and those that are being committed at present are calling for justice. Asia cannot fail in its duty to stand with the rest of the world in ending impunity, upholding the rule of law and realizing international justice.

Since coming into force in 2002, the Court has begun investigations in the Democratic Republic of the Congo, Northern Uganda, Darfur, Sudan, and most recently the Central African Republic. It is also looking into a number of other situations on four continents. The Court's deterrence effect is already being felt on the ground in the countries under investigation. Perpetrators in other parts of the world will have second thoughts before committing heinous crimes as justice spreads globally through the ICC.

The call for justice by victims of universally abhorrent crimes are now being heard louder and the avenues of escape are now becoming narrower as more states join the Court. Every additional ratification increases the territorial jurisdiction of the Court, meaning less potential safe havens for perpetrators. This is what we are celebrating today. We congratulate Japan for joining the Court today and encourage the remaining states in Asia to join our call for justice by joining the International Criminal Court.

**JUSTICE TO ALL VICTIMS OF HEINOUS CRIMES!
WORK FOR THE UNIVERSAL RATIFICATION OF THE ROME STATUTE OF THE
INTERNATIONAL CRIMINAL COURT!**

Signed by:

Evelyn Balais-Serrano, CICC Asia Coordinator;
Prof. Osamu Niikura, Co-Chair of the Japanese Network for the International Criminal Court;
& other regional groups
(END)

Accession of Japan to the Rome Statute

ICC-PR-20070717-231-En

The Hague, 17 July 2007

On 17 July, 2007, Japan acceded to the Rome Statute of the International Criminal Court (ICC). The accession comes on World Day for International Justice in honour of the adoption of the ICC Statute, the founding treaty of the ICC, on 17 July, 1998.

On 1st October 2007, when the Statute will enter into force for Japan, the total number of States Parties to the Rome Statute will be 105.

(END)

Japan becomes 105th country to ratify International Criminal Court treaty

The Associated Press, 17 July 2007

The HAGUE, Netherlands: Japan ratified the treaty establishing the International Criminal Court on Tuesday, the world's first global war crimes court announced.

The move makes Japan the 105th country to ratify the Rome Treaty and gives the Hague-based court a new strong financial supporter. Tokyo has pledged to pay 19 percent of the court's annual budget of about €90 million (\$124 million), said the Coalition for the International Criminal Court, a nongovernment group that supports the court's work.

"Japan's ratification is a major endorsement of the ICC and the new system of international criminal justice established by the Rome Statute," said William Pace, convener of the coalition.

"Japan is an important world power; we hope its decision will press other major powers and more Asian states to join the ICC."

Among the countries that have not ratified the treaty is the United States, which fears Americans could be unfairly prosecuted for political reasons.

Osamu Nikura, of the Japanese Network for the ICC, said that Tokyo wants to be involved in the court's work.

"As the one and only country that has suffered the devastation of a full-fledged nuclear attack, we believe it is time that our country plays an active role in the promotion of peace and human rights in the world," Nikura said in a statement.

Japan will formally join the court on Oct. 1, the court said in a brief statement.

Established five years ago, the court has yet to stage a trial and has only one suspect in custody. Its prosecutors are investigating atrocities in Darfur, Congo, Central African Republic and Uganda.

It hopes to start its first trial later this year, against former Congolese warlord Thomas Lubanga on charges of recruiting child soldiers.

The court has issued seven arrest warrants, including one for a Sudanese government minister, but Lubanga is the only person so far handed over.

(END)

Japan becomes global court's 105th member

Reuters / New Zealand Herald, 18 July 2007

UNITED NATIONS - Japan ratified the treaty establishing the International Criminal Court by depositing papers with the United Nations legal department, UN officials announced.

With Japan, 105 countries have ratified the Rome Treaty creating the first permanent global criminal court, set up to prosecute individuals for the world's worst atrocities - genocide, crimes against humanity and war crimes.

The Hague-based tribunal evokes memories of the Nuremberg tribunal that tried Nazi leaders and the Tokyo War Crimes Tribunal at the end of World War Two.

On April 27, the Japanese Diet's upper house unanimously approved accession to the court after the cabinet submitted legislation to parliament in February.

The Japanese ratification was timed to coincide with World Day for International Justice, which commemorates the adoption of the founding treaty of the ICC, the Rome Statute, on July 17, 1998.

Tokyo's action will give the fledgling court a financial boost as its highest payer, at 19 percent of the \$124 million (\$NZ158.77 million) annual budget.

Japan is an important world power. We hope its decision will press other major powers and more Asian states to join the ICC," said William Pace, head of the Coalition for an International Criminal Court that represents more than 1,000 organisations supporting the tribunal.

Few Asian countries have joined the tribunal. China and India show little interest.

The Bush administration has vigorously opposed the tribunal, although it allowed the UN Security Council to refer Sudan to the ICC.

It takes 90 days - until October - for Japan to be able to become state party to the tribunal. Japan announced it had nominated a candidate for a judgeship to the court for election in December.

The prosecutor for the court has issued seven arrest warrants: four in Uganda, one in the Democratic Republic of Congo, and two in Sudan.

It has opened an investigation in the Central African Republic.
(END)

Deposit of the Instrument of Accession to the Rome Statute of the International Criminal

http://www.mofa.go.jp/announce/announce/2007/7/1174502_830.html
Ministry of Foreign Affairs, Japan, 18 July 2007

1. On July 17 (Tue) (Japan time: 18 July (Wed)), the instrument of accession to the Rome Statute of the International Criminal Court (ICC) was deposited by Mr. Kenzo Oshima, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Japan to the United Nations (U.N.), with the U.N. Secretary-General, at the headquarters of the United Nations in New York. Japan will officially become a State Party to the Statute on October 1 this year. Japan's accession to the ICC is meaningful in contributing to the promotion of the "Rule of Law" in the international community, which is part of the "Value-Oriented Diplomacy" that Japan upholds. July 17, on which Japan deposited the Instrument, is recognized as the World Day for International Justice in commemoration of July 17, 1998, the date on which the Rome Statute was adopted.
2. The ICC is the first-ever permanent international criminal court to prosecute and punish, in accordance with international law, persons who have committed the most serious crimes of concern to the international community as a whole, such as the crime of genocide, crimes against humanity and war crimes.
3. Japan has consistently supported the ICC activities since the Court was established, with the purpose of eradicating and preventing grave crimes and ensuring the "Rule of Law." Japan intends, once it becomes a State Party to the ICC, to proactively support the ICC activities further through not only financial but also human resources by providing Japanese staff members, including a judge. As part of this contribution, Japan decided to nominate Ms. Fumiko Saiga, Ambassador in Charge of Human Rights and Member of the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW), as a candidate for the by-election of ICC judges to be held in December this year, and has been making efforts to obtain a seat for the candidate.
4. The Rome Statute came into effect on July 1, 2002, and has 104 States Parties as of July 16.

(END)

Digest of Media Coverage of Japan's accession to the Rome Statute of the ICC on 17 July
Excerpts from both televised and print coverage in the Japanese media
(Unofficial translations prepared by CICC Secretariat staff with invaluable assistance from the Japanese Coalition for the ICC)

TELEVISED MEDIA COVERAGE:

Tokyo Broadcasting System (TV station), 18 July 2007, [URL not available]

"Until now, while supporting the ICC, Japan has taken a cautious position by carefully verifying the compatibility of the Rome Statute with its existing laws. The turning point came when Prime Minister Abe expressed his will to accede. Required implementation laws were put in place for the eventual showdown in the form of the deposit of instruments of ratification that took place today."

JAPANESE PRINT MEDIA COVERAGE:

i. "Japan signs international court treaty," The Japan Times, 18 July 2007,

<<http://search.japantimes.co.jp/rss/nn20070719a7.html>>

"Japan on Tuesday ratified the treaty establishing the International Criminal Court, the world's first global war crimes court announced.

...'Japan's ratification is a major endorsement of the ICC and the new system of international criminal justice established by the Rome Statute,' said William Pace, convener of the coalition. 'Japan is an important world power; we hope its decision will press other major powers and more Asian states to join the ICC.'

Among the countries that have not ratified the treaty is the U.S., which fears Americans could be unfairly prosecuted for political reasons. Osamu Nikura of the Japanese Network for the ICC said Tokyo wants to be involved in the court's work.

'As the one and only country that has suffered the devastation of a full-fledged nuclear attack, we believe it is time that our country plays an active role in the promotion of peace and human rights in the world,' Nikura said in a statement...."

ii. Yomiuri Online (not Daily Yomiuri) 18 July 2007,

<<http://www.yomiuri.co.jp/world/news/20070718i102.htm>> [in Japanese]

"The government intends to cooperate with the court in terms of both human resources and finance. In the by-election of the Court's judges which is to take place in December, Japan intends to support the nomination of Mrs. Fumiko Saiga, the Ambassador in charge of Human Rights for the Ministry of Foreign Affairs."

iii. Asahi.com <<http://Asahi.com>> , 18 July 2007,

<<http://www.asahi.com/politics/update/0718/TKY200707180140.html>> [in Japanese]

"Japan has been an active supporter since the drafting phase of the statute establishing the Court in 1998. However, Japan lagged behind other states in joining the Court due to delays in drafting the implementing legislation and considerations on the position of the United States which is not a party to the treaty. Accession to the Court was finally realized as accession was approved in the Diet this April, and laws governing the cooperation for delivery of the accused and investigation were promulgated into law."

iv. Mainichi Interactive, 18 July 2007,

<<http://www.mainichi-msn.co.jp/seiji/gyousei/news/20070719k0000m010042000c.html>> [in Japanese]

"Japan has been cautious in joining the Court due to political considerations regarding the United States which faced the prisoners abuse scandal. However, following the principle of 'Value-oriented Diplomacy' which upholds the rule of law, the Abe administration lead the process to pass the relevant laws in the last General Session of the Diet."

v. "Japan to join international war court," The Ashai Shimbun, 19 July 2007,

<<http://www.asahi.com/english/Herald-asahi/TKY200707190122.html>>

"The Japanese government on Tuesday filed papers to join the International Criminal Court (ICC), which judges war crimes and other crimes against humanity.

Japan will become the largest contributor to the ICC, with an annual contribution of about 3 billion yen, equal to 22 percent of the ICC's total. Membership will become official on Oct. 1, making Japan the 105th member of the ICC."

(END)

'Let's engage in conspiracy of hope'--Chief Justice SC summit calls for truce, talks with insurgents

By Tetch Torres, Thea Alberto
Philippine Daily Inquirer, 18 July 2007

MANILA , Philippines -- (UPDATE 2) Chief Justice Reynato Puno believes there is still hope despite the extrajudicial killings and disappearances hounding the country.

Puno expressed his sentiments as the two-day summit on extrajudicial killings called by the Supreme Court ended with participants calling for a ceasefire and resumption of peace talks -- without preconditions -- with all insurgent groups.

"I like to believe that this summit has demonstrated Filipinos can be one and that therefore there is no reason to abandon hope in the Philippines," said Puno in his closing speech at the National Consultative Summit on Extrajudicial killings and Enforced Disappearances Tuesday.

"Let us rather engage in the conspiracy of hope...and hope for peace," he added. Puno said he would forward the summit's recommendation to President Gloria Macapagal-Arroyo, the Senate and House of Representatives.

In a chance interview, Puno said he was overwhelmed that he was able to gather the military and the Left, along with other officials for the discussion.

"We have overwhelmingly achieved our priority and that is to search for solutions," he said. On the summit's second day, the more than 300 participants were divided into groups, each led by a justice and with representatives from the military, police, legislature, progressive groups and the international community..

"In the clash of arms, the laws are silent. We need to reduce violence, create conditions conducive to less violence based on the rule of law," the workshop group led by Associate Justice Conchita Carpio-Morales said in its report, which called for common understanding about the peace and order situation in the country.

All the groups acknowledged the importance of genuine peace negotiations as a means to solve the rash of extrajudicial killings and enforced disappearances that have claimed hundreds of lives and brought the Philippines increasing international scrutiny and criticism.

One group, stressing the need to ensure due process is accorded at all times, recommended that Republic Act 9372 or the Human Security Act be declared unconstitutional.

Another group called for the enactment of a new national identification system law, this time following the parameters set by the Supreme Court in two of its rulings on the controversial legislation.

All the groups agreed that insurgency is not only a military but also a political problem and said a ceasefire would be a sign of the government's goodwill and sincerity in forging genuine peace agreements with all rebel groups.

They also recommended the use of the third-party approach to peace negotiations.

Among the other recommendations of the summit are:

- for the Supreme Court to reexamine the case of *Umil v. Ramos*, which said rebellion and related crimes are continuing offenses, thus allowing the warrantless arrest of suspects;
- to carefully study the possibility of creating a new offense for the killings and assaults on journalists, judges and activities, akin to the law penalizing violence against woman and children. The participants said these groups are in need of protection by the law;
- the establishment of sanctuaries where victims and witnesses can take refuge;
- for the President to certify and the Senate to ratify the Rome Statute, which established the International Criminal Court, and Protocol 1 of the Geneva Convention, which addresses the issue of making civilian populations or individual civilians the object of attacks;
- the enactment of a law addressing and accurately defining extrajudicial killings and enforced disappearances;
- allotting a bigger budget for the Department of Justice's witness protection program and for non-government organizations to be allowed to set up their own similar programs;
- deputizing private prosecutors and the Commission on Human Rights during the preliminary investigation of cases involving extrajudicial killing and enforced disappearance;
- a study on the use of the writ of Amparo for greater protection of Constitutional rights, and a more creative and resourceful application of the writ of habeas corpus;
- suspending the presumption of regularity in the performance of official duty in cases of extrajudicial killings and enforced disappearance;
- requiring witnesses' testimony to be taken inside judicial chambers;
- studying whether the government can continue invoking its immunity from prosecution in cases of extrajudicial killings and enforced disappearances;

- the setting up of an official impartial monitoring system on all cases, including coming up with benchmark figures;
- for the Supreme Court to adopt a rule allowing persons threatened with extrajudicial killings to seek protection orders from the court;
- allowing petitioners for the writ of habeas corpus to seek court orders to search the premises of police and military camps and stations in the presence of a representative from the Commission on Human Rights;
- requiring the Department of Interior and Local Government (DILG) to take DNA samples of unidentified cadavers for preservation in the Philippine National Police laboratory;
- giving more teeth to the Commission on Human Rights, including the power to investigate and prosecute;
- giving free newspaper space or airtime to announcements of missing persons believed to be victims of enforced disappearances and extrajudicial killings;
- the adoption of international standards of command responsibility;
- the enhancement of moral, ethical and constitutional values that put a premium on tolerance and the rule of law.

-- enforcing a policy addressing the proliferation of loose or unlicensed firearms.
(END)

World Day of Justice

Column: Human Face / By Ma. Ceres P. Doyo
Philippine Daily Inquirer, 19 July 2007

Last Tuesday, July 17, was World Day of Justice. The day marked a milestone in the history of international law and international justice. Nine years ago, in 1998, 120 states attending the Plenipotentiary Conference in Rome adopted the Rome Statute, the founding treaty of the International Criminal Court (ICC). As of today, 139 states have signed and 105 have ratified.

It should be noted that while celebrations were taking place all over the world, here in the Philippines a summit on extrajudicial killings attended by stakeholders from civil society, the government and the church, as well as legal experts and individuals in search for justice, was taking place.

Here are some pertinent facts about the ICC. The ICC is the first permanent international judicial body capable of trying individuals for genocide, crimes against humanity and war crimes when national courts are unable or unwilling to do so.

The ICC represents one of the significant opportunities for the world to prevent or significantly reduce the deaths and devastation that result from conflicts. The Rome Statute of the ICC came into force on July 1, 2002 and since then, much has been achieved with the establishment of the court. Located at the Hague in the Netherlands, the court is now a fully-functional institution. The senior court officials are seated in place and are proceeding with formal investigations.

“Birthday parties” were held in many parts of the world last Tuesday and here in the Philippines, NGOs held a forum and a film showing.

One significant development is Japan’s formal ratification of the ICC treaty yesterday at the United Nations headquarters in New York. With Japan in, 105 states have ratified the ICC treaty. There are more than 30 other countries that have signed but have not ratified it. The Philippines is among them.

Last year, the Senate, the House and the Commission on Human Rights made resolutions for the ratification of the statute. But President Gloria Macapagal-Arroyo has not transmitted the document to Congress so that the ratification would be done.

Most of the world’s democracies (all but one European Union government), most of sub-Saharan Africa, most of Latin America and the Caribbean have joined the ICC.

The ICC budget is about 90 million euros a year and Japan will assume about 19 percent of it. Japan has also nominated a judicial candidate for election to the court in December.

Universal ratification and greater cooperation from governments in securing arrests are among the ICC's important goals. The international support for the ICC shows the growing consensus that impunity on the part of perpetrators of massive atrocities will no longer be tolerated. There is a court of last resort to which the aggrieved could go.

The court is currently investigating grave mass crimes in four countries: Uganda, the Democratic Republic of the Congo, Sudan and the Central African Republic. It has issued seven arrest warrants.

Later this year, the court will begin hearing the case against Thomas Lubanga Dyilo on the use of child soldiers.

The Philippine Coalition of the ICC is a network of individuals and organizations committed to generate support for the ICC through information and lobbying so that the Philippine government would ratify the Rome Statute. It is part of an international network of about 2,000 civil society groups that support the universal acceptance of the ICC.

Today the court is truly international, permanent, fully functional and becoming attuned to the cries of affected communities. It reflects the major legal systems of all geographic regions of the world and it can hold individuals accountable for massive crimes.

More than one participant drew attention to the bigger context of the political killings and politically motivated disappearances: that they happen under a national-security rather than a comprehensive-peace paradigm. When democratic space itself is under attack, the long-term solution is not to constrict it, but to widen it.

(END)

Japan Wants Philippines To Become Member Of International Criminal Court

Komfie Manalo - AHN News Writer, 19 July 2007

Manila, Philippines (AHN) - The Japanese government is calling on the Philippines to ratify the Rome Statute of the International Criminal Court and submit the government to the court which can prosecute and punish cases of genocide, crimes against humanities and war crimes.

Japanese Ambassador to the Philippines Ryuichiro Yamazaki said Tokyo ratified the treaty on July 17 and will be the 105th state party to the statute on October 1 this year.

He said in a speech commemorating the 9th anniversary of the treaty, "We will strongly encourage Asian countries, including the Philippines, to ratify the Rome Statute. Once the Philippines becomes a member of the ICC, Japan will work even more closely with your government, and the same will hold true for other Asian nations that will join the ICC."

"Let me emphasize that the conflicts that continue to rage in different parts of the world make the participation of all nations in the ICC doubly significant. For it is only by bringing to justice all those who have committed crimes against humanity that we can begin to lessen strife, and bring

about greater harmony and peace among the nations and peoples of Asia and the rest of the world," he said.

Former Philippine president Joseph Estrada signed the document in December 2000. It was also during his time that the treaty was drafted in 1988 with Manila one of the original drafters. However the administration of President Gloria Macapagal-Arroyo has yet to submit the document to the Senate for ratification.

(END)

It's political

Editorial

Philippine Daily Inquirer, 20 July 2007

MANILA, Philippines -- The first thing we do, let's kill all the lawyerly talk. Or at least the kind that has enveloped the scourge of the killings and the disappearances in a miasma of genericized violence.

At the historic "National Consultative Summit" organized by the Supreme Court earlier this week, most definitions of extrajudicial killings and enforced disappearances stressed a necessary element: their political motivation. Many participants also noted that "extrajudicial" was too broad, and could actually refer to any killing without legal sanction, such as a murder committed by a gang of criminals.

So let's call a spade a spade. Let's call the murders of leftist activists, journalists, even judges, after the main element that defines them: "political killings." And let's call related disappearances "politically motivated."

Getting the name right may not stop the spree of violence, but at least it will help us avoid the trap that George Orwell warned us about: the misuse of language to conceal the truth, even from ourselves.

In large part, political killings and politically motivated disappearances require political solutions. Several specific proposals raised at the summit deserve a closer look and greater public support.

- For the Department of Health or the Department of the Interior and Local Government to direct municipal health officers to secure DNA samples of unidentified cadavers, for preservation by the Philippine National Police forensic laboratory. This will, among other possibilities, allow prosecution to prosper even when, as is often the case, evidence is found or witnesses come forth late in the day.
- For Malacañang and the Department of Justice to strengthen the Witness Protection Program by dramatically increasing its budget (at present, according to Justice Secretary Raul Gonzalez, a mere P83 million, to handle some 800 witnesses).

- For the Senate to ratify related United Nations conventions and protocols, including the Rome Treaty creating the International Criminal Court and the Optional Protocol to the UN Convention Against Torture (more familiarly known as OPCAT).

- For Congress to enact a law defining the parameters of command responsibility.

As the summit itself demonstrated, however, the political branches of government do not have a monopoly on the solutions. Indeed, many of the proposals were premised on the assumption that the Supreme Court would tighten certain procedural requirements, and loosen others, to more effectively safeguard human rights. Some of the proposals include:

- That the Supreme Court promulgate a new rule offering a Temporary Protection Order to persons who have reasonable cause to fear political violence, an order which will direct either the National Bureau of Investigation or the Philippine National Police to provide petitioners with security.

- That the Supreme Court amend the rules on evidence to require the presence of representatives of the Commission on Human Rights in police investigations of political killings or politically motivated disappearances.

- That the Supreme Court promulgate a new rule allowing habeas corpus proceedings to be complemented by a motion for ocular inspection; that is, a petitioner may ask a court for authority to search specific premises under court-imposed guidelines, perhaps including the presence of representatives of the CHR.

- That the Supreme Court allow a transfer of venue, when a case being heard in court involving a political killing or a politically motivated disappearance in a particular locality may come under undue influence.

To be sure, none of these proposals, even if they take effect immediately, can guarantee a stop to the killings and abductions. Not even the proposal, raised in one workshop, that the chief executive's "absolute immunity" privilege be circumscribed either through legislative fiat or through jurisprudence can offer that guarantee.

More than one participant drew attention to the bigger context of the political killings and politically motivated disappearances: that they happen under a national-security rather than a comprehensive-peace paradigm. When democratic space itself is under attack, the long-term solution is not to constrict it, but to widen it.

(END)

One Year of Parliamentary Direction

Call for Accession to Rome Statute of the International Criminal Court

Joint Press Statement, 25 July 2007

"... Nepali people want the end to all kinds of impunity of the crime. Therefore, resolving that the Rome Statute of the International Criminal Court should be acceded by Nepal Government

to obtain international access to ensure that no criminals and offenders get impunity anywhere, this meeting directs Nepal Government to accede to the Rome Statute."

-Unanimous Resolution endorsed by the House of Representatives, 25 July 2006

Today is the completion of one year of unanimous direction adopted by the then House of Representatives (HoR) to the Government of Nepal to accede to Rome Statute of the International Criminal Court (ICC). On this occasion, we recall the eagerness and positive commitments demonstrated by the government, political parties and the then HoR and present Interim Legislature-Parliament towards the ICC.

Prime Minister, senior ministers and top leaders of political parties have been reiterating their commitments toward forwarding the process immediately to accede to the Rome Statute. For this, the government formed three Inter-Ministerial Task Forces to study the obligations and impact which Nepal will be subjected to. The Task Forces have already submitted their reports to the Government, including the latest one in December 2006.

We would like to recall commitments by the eight political parties, Interim Legislature-Parliament and the Interim Government for providing guarantee to good governance, ending impunity, establishing democratic norms and values, and governance based on principles of the rule of law expressed through formal documents like the Comprehensive Peace Accord-2006, Interim Constitution-2007 and the Common Minimum Programme of the Interim Government-2007. For effective implementation of such commitments, Nepal's involvement in the ICC is a must and for which the HoR restored with the mandate of Popular Uprising had unanimously endorsed the resolution last year. Immediate implementation of that resolution is the way to establish political stance to those commitments.

Therefore, we urge the Prime Minister and Ministers to coordinate among ministries, to hold discussion in the meeting of the Council of Ministers and to forward the process for accession to the Rome Statute. Along with this, we call on the eight political parties to prioritise the issue at political level to speed up the accession process. Considering that the last year's parliamentary direction still remains unrealised, we request Speaker and Members of the Interim Legislature-Parliament to stir and exert more pressure on the executive to accede to the Rome Statute of the ICC.

Subodh Raj Pyakurel

Chairperson, INSEC/Coordinator, National Coalition for the ICC (NCICC)

(On behalf of 106 organizations and human rights defenders enlisted.)

(END)

Rights groups ask govt to accede to Rome Statute

Nepal News Media Article, 25 July 2007

The National Coalition for the International Criminal Court (NCICC), the joint forum 106 human rights groups in Nepal, has called on the government to accede to the Rome Statute, the founding

treaty of the International Criminal Court (ICC).

Issuing a press statement Wednesday on the completion of one year of unanimous resolution of then House of Representative directing the government to accede to the Rome Statute, the NCICC also called on the legislature parliament and eight-party alliance to take initiative to pressure the government to ratify the Rome Statute, which, according to the National Coalition, would be crucial in ending the culture of impunity in Nepal.

The National Coalition said the involvement of the ICC is necessary to effectively implement the commitments made by the interim parliament, political parties and the interim government to ending impunity and establishing democratic norms and values based on the principles of rule of law.

A government taskforce formed to study the Rome Statute had submitted its report to then Deputy Prime Minister and Foreign Minister KP Oli last October, but the interim cabinet has not yet taken up the issue...

(END)

FORUM-ASIA Urges Government of Nepal to Deliver on Its Commitment to the ICC

Press release, 25 July 2007

(Bangkok) Today marks one year since the unanimous direction given by Nepal's former House of Representatives (HoR) to the Government to accede to the Rome Statute of the International Criminal Court (ICC). Asian Forum for Human Rights and Development (FORUM-ASIA) urges the Government of Nepal to take a major step forward in its commitment to international justice and the rule of law by joining the Court as soon as possible.

Nepal joining the ICC would signal that it believes in justice and accountability for the worst human rights violations which are central to the rule of law and a stable, just system of governance. Nepal now has an opportunity to become the 106th state party to the Statute in order to lead the fight against crimes of genocide, crimes against humanity and war crimes. Acceding to the Rome Statute is an opportunity for the Interim Government of Nepal to demonstrate its commitment made in the Comprehensive Peace Agreement of November 2006 to establish the rule of law in Nepal. An immediate accession to the Rome Statute will facilitate to end impunity and strengthen the rule of law in Nepal.

In July 2006, Nepal's HoR of the time adopted a unanimous directive to accede to the Rome Statute of the ICC. During the lobby visit by the delegates of Global Coalition for the ICC, Asian Network for the ICC and FORUM-ASIA in August 2006, the Prime Minister, ministers and major political parties indicated that they would take appropriate measures to promptly accede to this important international instrument. Nevertheless, there have been no further developments regarding the process since then. As a steering committee member of the Coalition for the ICC (CICC) from Asia, FORUM-ASIA would like to share that the increasing number of member states is promising as a total of 105 countries have so far ratified the Rome Statute.

Unfortunately, Asia remains poorly represented at the Court, and greater Asian participation is needed to ensure that the ICC is enriched by the diverse legal cultures of the region. Human rights NGOs are hopeful that the recent joining of Japan to the Court will encourage other Asian countries towards adopting the ICC and further motivate the ongoing processes in some other Asian countries.

FORUM-ASIA believes that the accession to the Rome Statute by Nepal also encourages the remaining states in Asia to enlist the call for justice.

Sincerely,
Anselmo Lee
Executive Director
(END)

**Make the ASEAN roadmap for justice, the rule of law
and the International Criminal Court**
OPEN LETTER TO THE 13TH ASEAN SUMMIT / Press Release
Manila, Philippines, 24-25 October 2007

To the Heads of State of ASEAN Member Countries,

Greetings as the Association of Southeast Asian Nations (ASEAN) celebrates this year 40 years of working together “to accelerate economic growth, social progress and cultural development in the region”, and; “to promote regional peace and stability.”

The 1967 Bangkok Declaration exhorts ASEAN to attain its economic, social and cultural aims through “joint endeavours” and “active collaboration and mutual assistance.” Today, ASEAN follows the Roadmap for Financial and Monetary Integration of ASEAN to ease the flow of goods, services, investments and capital in the region by 2020.

The Declaration contains less concrete exhortations on the political objective of regional peace and stability. It speaks of “abiding respect for justice and the rule of law in the relationship among countries in the region and adherence to the principles of the United Nations Charter.”

We, non-government and people’s organizations, taking part in the Sixth ASEAN People’s Assembly (APA), call on ASEAN to take steps to realize its avowed political objective of regional peace and stability by making a roadmap to justice and the rule of law.

Since the first APA was convened in the Indonesian island of Batam in 2000, civil society groups have urged ASEAN member states to take political positions on matters of grave concern. This year alone, we believe, ASEAN should speak out and act on the latest clampdown in Burma and continuing militarization in other parts of the region.

We also believe that any roadmap for justice and rule of law should have as a major milestone the commitment of ASEAN to the International Criminal Court (ICC). Since the adoption of the

Rome Statute of the ICC on 17 July 1998 and its entry into force on 1 July 2002, the Court has exercised jurisdiction over the most heinous crimes--genocide, crimes against humanity, war crimes and crimes of aggression.

This year, on July 17, the World Day for International Justice, advocates of the ICC in Asia celebrated Japan's accession, making Japan the 105th state party to the treaty. And yet, Japan is only the 13th country from Asia and the Pacific to join the Court. From Southeast Asia, only Cambodia and Timor-Leste are presently states parties.

We are looking to the rest of ASEAN member countries to advance international justice by supporting the ICC now. To this end, we are especially looking forward to the leadership of the states parties, Cambodia and Timor-Leste.

We are also hopeful that the support of three of the five original ASEAN members will be decisive in the next few years. Indonesia has adopted a National Plan of Action on Human Rights in 2004 that states that Indonesia intends to ratify the Rome Statute in 2008. The Philippines and Thailand have both signed the treaty.

The theme of APA 2007 is "ASEAN at Forty: Realizing the Peoples' Expectations" to mark the four decades of ASEAN and to elicit from the APA participants what they expect from ASEAN now. We stress that the call to support the International Criminal Court has time and again been raised in the past Assemblies.

ASEAN can stand for peace and regional stability now. ASEAN member countries can join the over 2/3 of the world that has committed to international justice through the ICC. In so doing, they would be advancing the rule of law in the national, regional and international arenas. States parties have to enact national laws to ensure that it will combat impunity by effectively investigating and prosecuting crimes of genocide, crimes against humanity and war crimes before its national courts. As more countries cooperate with the International Criminal Court, it will deter the commission of the worst crimes known to humanity, give justice to the victims, and put an end to impunity and stop impunity.

We look forward to the day when all 10 member countries of ASEAN will be able to play an important role in the International Criminal Court's governing body – the Assembly of States Parties (made up of all governments that have ratified) – and contribute to the advancement of international justice.

Signed by **EVELYN BALAIS-SERRANO**

Coordinator for Asia-Pacific

Coalition for the International Criminal Court (CICC)

(With 30 other regional, sub-regional, national groups and some individuals.)

(END)

Malaysia Not Ready To Join International Criminal Court

BERNAMA, 14 November 2007

KUALA LUMPUR, Nov 14 (Bernama) -- Malaysia is not yet ready to sign the Rome Statute of the International Criminal Court (ICC), the Dewan Rakyat was told Wednesday.

Foreign Ministry parliamentary secretary Datuk Ahmad Shabery Cheek said that although Kuala Lumpur recognised the statute in principle, there were lingering questions over the interpretation of certain terms.

"Although many countries have ratified it, there's no need for us to rush headlong into it as many other big powers and so-called champions of human rights have yet to do so," he said in reply to M. Kulasegaran (DAP-Ipoh Barat) during the question-and-answer session in the Dewan Rakyat here.

The court was established by the Rome Statute of the ICC, so called because it was adopted in Rome on July 17, 1998. The statute entered into force on July 1, 2002. To date, 105 countries have become parties to the statute.

Ahmad Shabery said that signing the statute meant that Malaysia may have to change some of its laws.

He further said that many countries had to ink the ICC treaty as they wanted to put their war-checked past behind them.

Malaysia did not have that kind of problem and, for this reason, there was no need for the country to make a hasty decision with regard to the ICC treaty, he said.

The ICC is an independent, permanent court that tries persons accused of the most serious crimes of international concern, namely genocide, crimes against humanity and war crimes.
(END)

AMNESTY INTERNATIONAL- Public Statement

<http://web.amnesty.org/library/index/engASA310112007?open&of=eng-NPL>

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Nepal at a crossroads – urgent need for delivery on transitional mechanisms for truth, justice, inclusion and security The first anniversary of the signing of the Comprehensive Peace Accord (CPA) offers an opportunity for the Nepali Government to renew its commitment to the promises of justice, security, social, cultural and economic equality and inclusion and set in motion the mechanisms in the CPA for the realization of these values. Today Amnesty International is launching 60 days of action to hold both the Government of Nepal and the Communist Party of Nepal (CPN) (Maoist) accountable for commitments made in the CPA.

The CPA of 21 November 2006 ended a decade of armed conflict in Nepal between the security forces and CPN (Maoist). The Accord talked of a 'new Nepal' and promised a set of transitional

mechanisms to take forward political, social and economic transformation. By April 2007, an interim Parliament and an interim Government - including 73 Members from the CPN (Maoist) - had been formed. However, elections to a Constituent Assembly (CA) which was envisioned to have a key role in bringing about the 'new Nepal' have been delayed indefinitely. Also, the country has experienced the emergence of an ethnic conflict in the southern Terai area where members of several Madeshi communities are demanding an end to centuries of discrimination; the Terai has seen violent protests and crippling transport strikes; a sharp rise in communal and sectarian violence and a rise in crime, especially in urban areas.²

Amnesty International believes that without delivering on the promises of justice, security and inclusion in the CPA, there is a real danger of Nepal's recent tragic history repeating itself. Anything less would be a gross betrayal of the victims of violations of international human rights and humanitarian law, including hundreds of families still anxiously awaiting news of their missing relatives.

The Nepalese are hungry for justice after a war in which at least 13,000 people died, among them thousands of civilians killed by the security forces.³ At least 900 people disappeared after they were detained by the security forces. The CPN (Maoist) is responsible for several hundreds of killings, abductions and torture of people seen as opposed to their cause.⁴ Around 200 remain unaccounted for in CPN (Maoist) detention.⁵

Promise of transitional justice

The "peace" which Nepal has so far achieved is temporary, incomplete and extremely precarious. While the CPA does include an acknowledgement that it is necessary to address past violations of international human rights and humanitarian law, the implementation of these provisions has been extremely problematic to date.

The CPA promised four transitional justice mechanisms:

- the Truth and Reconciliation Commission (TRC);
- the National Peace and Reconciliation Commission (NPRC);
- a High-Level Inquiry Commission on Disappeared Citizens (Disappearances Commission)
- and a High-Level State Restructuring Recommendation Commission (SRRC).

While there have been some moves in this process, none of these mechanisms have fully materialized. Thus the promises of dealing effectively with the crimes committed during the armed conflict or to work towards a more inclusive society have so far remained unfulfilled.

Commitments made in the Accord also included making public the names of all the people who were victims of enforced disappearance and abduction as well as those who were killed during the conflict, within 60 days of signing the CPA and informing families of the truth about what happened to their relatives. The government has introduced some measures to address the issue of enforced disappearances. However, most of the families of the victims are no nearer to knowing the whereabouts of their loved ones.

On 1 June 2007, a landmark Supreme Court judgment recommended that Parliament establish a

commission to investigate enforced disappearances in line with international law and standards.⁶ In response, the Government of Nepal established a High Level Commission of Inquiry on Disappeared Persons (Commission on Disappeared Persons), to investigate enforced disappearances committed in Nepal between 13 February 1996 and 21 November 2006.

However the Commission on Disappeared Persons was established under a law that the Supreme Court had already found to fall short of international standards. The process of setting up the Commission failed to involve meaningful consultation with relatives of victims and civil society. Though Commissioners have been appointed, the Disappearances Commission has not started its work and remains marred in controversy.

A draft Truth and Reconciliation Commission Bill was published by the government in July 2007. The draft Bill was intended to establish a Truth and Reconciliation Commission to investigate 'persons involved in gross violations of human rights and crimes against humanity during the course of armed conflict'.⁷

Amnesty International has a number of concerns about the process by which this Commission is being set up and outlined these in a report.⁸ Key concerns include provisions that appear to allow the granting of amnesties to perpetrators of crimes under international law, including hundreds of cases of enforced disappearance. As a result of these and other provisions, the TRC Bill reflects what one former member of the Human Rights Commission, Sushil Pyakurel, calls; "the justice of the victors, both sides want to bury their secrets".⁹

Ongoing impunity

"Neither the government nor the Maoists has shown any interest to investigate and punish perpetrators," says Mandira Sharma, Director of Advocacy Forum, an NGO working closely with victims' families. Although disappearances cases have been taken up by the UN Working Group on Enforced and Involuntary Disappearances, the Nepal Army has so far failed to cooperate with police investigations.

In one case, for instance, of the arbitrary detention of 15-year-old Maina Sunuwar, who was tortured to death on 17 February 2004.

Advocacy Forum notes that: "In a sham proceeding in September 2005, a Court martial found three officers guilty of negligence and "not following the proper procedure" with respect to disposing of Maina's body; they were imprisoned for six months".¹⁰

The enforced disappearance of at least 46 prisoners from Bhairab Nath battalion, Maharajgunj, Kathmandu in 2004 has also failed to be properly investigated, despite an authoritative report published by the United Nations Office of the High Commissioner for Human Rights in May 2006.¹¹ Human rights lawyer Jitman Basnet was arrested by the army in 2004, and was held for almost nine months in Kathmandu's Bhairab Nath army barracks, where he was reportedly tortured. His book, *258 Dark Days*, is an account of his own experiences and also of the accounts he heard from other detainees. In the book, he names soldiers he claims raped, tortured and killed people during the conflict.¹²

Despite first hand accounts such as this, all arms of the criminal justice system (including the police and Attorney General's Department) are reluctant to proceed with criminal investigations even when complaints are filed with the police. Neither the security forces nor the CPN (Maoist) have taken concrete steps to strengthen accountability within their ranks.

Amnesty International is concerned by ongoing abuses by the CPN (Maoist) and the Young Communist League (YCL). The YCL have reportedly committed a number of human rights abuses including abductions and ill-treatment in captivity, attacks on physical and mental integrity, and the violent disruption of political activities. The CPN (Maoist) did admit public responsibility for the abduction and killing of journalist Birendra Kumar Sah on 5 October 2007 in the Bara district in the South.¹³ However instead of condemning increasing attacks on press freedom by Maoist affiliated trade union groups, the CPN (Maoist) said that 'individualistic' and 'anarchist' nature of lower-rung party cadres had caused the incident.¹⁴

Given the fragile peace process, some analysts highlight the need to balance justice and security. What has been learned from other conflicts is that if impunity remains embedded it often fuels further conflict. Those responsible for human rights violations often continue to perpetrate abuses if they think their actions will continue to go unpunished. Today, perpetrators of torture, enforced disappearances and unlawful killings openly walk the streets of Nepal while victims continue to face threats and harassment. Human rights groups in Nepal have not given up hope of justice and some of the victims, including Jitman Basnet, continue to speak out demanding that perpetrators of past violations are brought to account. In the next 60 days Amnesty International members will be writing to families of those who remain missing to express their solidarity. It is the duty of the Government to listen to their voices and act now, before it is too late.

Recommendations

The Supreme Court ruling of 1 June 2007 calling for the establishment of an effective, independent and impartial commission of inquiry to determine the fate and whereabouts of all "disappeared" persons in accordance with international law and standards must be implemented;

The Nepali government and CPN (Maoist) should immediately make information about the disappeared persons available to their families, as well as to any independent and impartial body investigating human rights violations, as stated in the CPA;

The Nepali authorities must ensure that all victims of serious violations of international human rights and humanitarian law are granted full reparations, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition, in accordance with international law and standards;

Any legislation for the establishment of a Truth and Reconciliation Commission must involve a comprehensive process of consultation with all those concerned, including civil society

organizations, both Nepalese and international, victims, human rights defenders, persons belonging to minorities and vulnerable groups, and others;

Legislation establishing a Truth and Reconciliation Commission must not include any amnesties or other means whereby perpetrators may avoid justice. Rather, the establishment and publicizing of the truth about violations in Nepal should complement the process of prosecuting perpetrators of these violations, in proceedings which meet international standards of fairness.

The Government should ratify the Statute of the International Criminal Court.
(END)

Violence in this season of peace

GMA News Services, Friday, 28 December 2007

Column: Top of Form by Joe Torres

The statement issued by President Gloria Macapagal Arroyo on the assassination of Pakistan's former prime minister Benazir Bhutto says it all: "Such act of violence has no place in a civilized society like ours."

Indeed, the death of Bhutto deserves condemnation.

The deaths and killings of political activists, journalists, judges, priests, farmers, soldiers, police officers in the Philippines also deserve utmost condemnation.

The President is right. Such acts of violence have no place in a civilized society like ours.

This year, five journalists have been killed in the Philippines. We ranked as the fifth in the list of countries that recorded the deadliest year for journalists.

The killings and the attempts on the lives of journalists are also unfortunate and deserve our condemnation.

The killings of activists, too. Figures from various human rights organizations vary. Some say about a thousand activists were already killed.

That's too much blood spilled.

SUFFER THE CHILDREN. Every year, on December 28, Filipinos observe the "Holy Innocents Day" to remember the children who were supposed to have been ordered killed by King Herod to prevent the realization of a prophecy that a boy who would be born during his reign would be king.

Two thousand years later, there's no need for King Herod to kill Filipino children. Many of them die because of poverty.

The National Statistical Coordination Board states: "Across all basic sectors, children, women and urban poor consistently accounted for the largest number of poor population at 14.1, 12.2 and 6.9 million in 2000 and 13.5, 11.6, 6.3 million in 2003, respectively.

"On the other hand, fishermen, farmers and children comprised the poorest sectors with poverty incidences of 50.8%, 46.6% and 42.5% in 2000 and 43.6%, 42.4% and 38.8% in 2003, respectively."

The Philippines also holds a record to be among the countries with the most children in prostitution, with 60,000 - 100,000.

By the way, we have child warriors too. And they too are dying.

A REASON TO HOPE. There are groups, however, that believe in hope, and are trying to end, in a very ambitious dream, the cycle of violence.

The Philippine Committee for the International Criminal Court, part of the global network of over 2,500 NGOs advocating for a "fair, effective and independent International Criminal Court, believes that building "bridges for peace" will do the trick.

The group plans to launch early next year a project that would "break the walls of resistance from the security forces and initiate confidence-building measures towards a direction of working together in improving peace, human rights and development" in the country.

The group will be working closely with the "security sector," meaning the military and the police, "by improving existing training and education modules on peace, human rights and sustainable human development and strategic management for self-regulation and to instill professionalism within its ranks anchored on the principles of human rights, international humanitarian law and sustainable human development."

That's a lot of words. That's a lot of work.
(END)