International Association of People's Lawyers

International Association of People's Lawyers

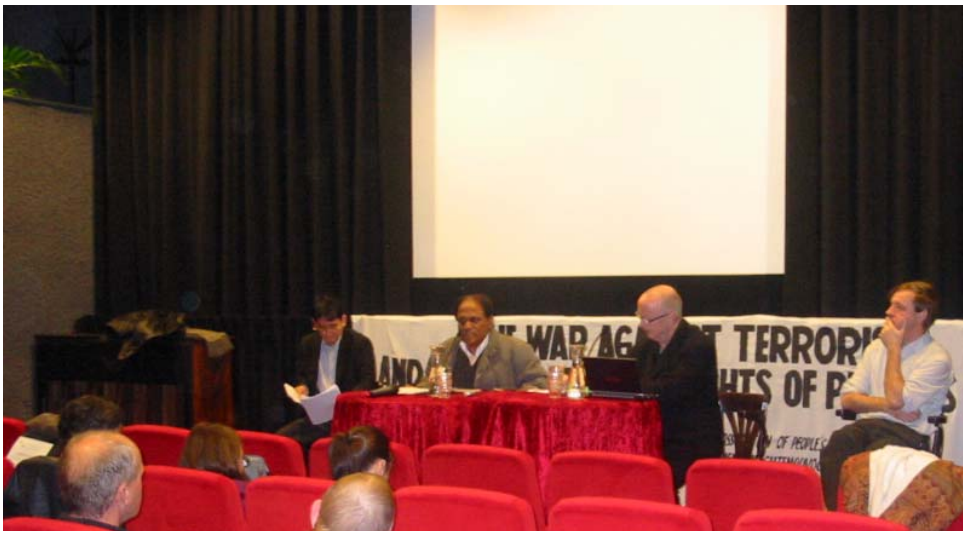
# DISSENT

Issue No. 5 | € 2,50 | 2006

## In this Issue



# The War On Terror and the Fundamental Rights of the People



From left to right: Atty. Edre U. Olalia from the Philippines, Atty. P.A. Sebastian from India, Prof. Bill Bowring from the United Kingdom, and Atty. Raf Jespers from Belgium.

The International Association of Peoples' Lawyers (IAPL) and Stichting Mensenrechten Advocaten (Foundation of Human Rights Lawyers) held a forum on December 3, 2005, at the Louis Hardloper Complex in Utrecht, the Netherlands.

The theme of the conference was "The War On Terror and the Fundamental Rights of the People." Atty. Jan Hofdijk from The Hague acted as moderator of the forum.

The first speaker was Professor Bill Bowring, who spoke on "Anti Terrorism Laws in the United Kingdom and their Effects". Professor Bowring teaches Human Rights and International Law in the London Metropolitan University. He is one of the founders of the European Human Rights Advocacy Centre (EHRAC) and is also the International Secretary of the Haldane Society of Socialist Lawyers in the United Kingdom.

The second speaker was Professor Emeritus Ties Prakken. She spoke on "The Anti-terror Laws in the Netherlands and Human Rights" Professor Prakken teaches Criminal Law and Criminology in the Univeristy of Maastricht. During the 1980's she was one of the most well known criminal lawyers in the Netherlands. She has defended a lot of cases of antimilitarists, environmental activists and feminists.

Atty. Raf Jespers spoke on "A Critical Look at the European Anti-Terrorist Policy". Atty. Jespers is a senior partner at the Progress Law Network in Belgium. He has published several articles on the above subject.

Atty. Edre U. Olalia was the last speaker. He spoke on "The Status in International Law and the Fundamental Rights of People". Atty Olalia is with the Public Interest Law Center in the Philippines and is the author of the pamphlet "The Status in International Law of National Liberation Movements and Their Use of Armed Force". IAPL has published this work. #

**For copies contact:**

SMA-IAPL
Oudegracht 36
3511 AP Utrecht
The Netherlands
Tel & Fax: 31-30-2145593
Email: secretariat@iapl.net
Website: www.iapl.net
Bank Account:
Stichting Mensenrechten Advocaten
ING BANK 67.48.35.409

***EDITORIAL:***

# The Terrorist Threat

Today, the US is using the terrorist bogey, for its own self-serving agenda. We in IAPL condemn all forms of terrorism: from groups like Al Qaeda, from individual persons, or from states. The victims of fundamentalist and extreme right terrorism of Al Qaeda are innocent civilians. The victims of state terror are in most cases also innocent citizens.

The United States government leads the pack of states using the terrorist bogey to justify their military adventures abroad and to clamp down on their citizens in the name of the so-called "war on terror".

In the name of this "war on terror", George W. Bush was able to breeze through Congress the USA PATRIOT ACT that contains many provisions that undermine many of the civil liberties of Americans. Before September 11, these draconian measures were kept in the back burner because of strong opposition from civil libertarian groups. September 11, provided the right-wing cabal behind George W. Bush the excellent opportunity to get these through Congress.

September 11 gave George W. Bush the chance to make war that otherwise the American people would have opposed. Someone must have told him what Nazi General Hermann Goering said:

"Why of course the people don't want war... But after all, it is the leaders of the country who determine the policy, and it is always a simple matter to drag the people along, whether it is a democracy, or a fascist dictatorship, voice or no voice, the people can always be brought to the bidding of the leaders. That is easy. All you have to do is to tell them ***they are being attacked***, and denounce the pacifists for lack of patriotism and exposing the country to danger. It works the same in every country."(Goering said this in an interview during the Nurenberg trials in 1946.)

Bush seized the opportunity (some people say September 11 was a CIA conspiracy) to frighten the American people with the "terrorist threat". It is necessary to wage a "war on terror" to preserve "freedom" and "the American way of life." International terrorism he told the international community must be fought by everyone. And "those who are not with us, are against us."

National liberation movements fighting foreign domination are called terrorists. And terrorists are supposed to be the worst kind of criminals. Being "illegal combatants" they are not supposed to be covered by existing international conventions. Unconventional measures (read: torture and other inhuman and degrading treatment) can therefore be applied to them.

The people are told to be prepared to make the necessary sacrifices including suspension of their civil liberties. This is supposed to be necessary to preserve freedom and democracy. #

*DISSENT is the official publication of the IAPL. The IAPL is an international organization of human rights lawyers, paralegals, law students and legal workers that aims to contribute to the establishment of a just and humane world order and use the legal profession to obtain immediate and concrete gains for the people's struggles for national freedom, social justice, democracy and respect for human rights.*


From left to right: Atty. Jan Hofdijk and Prof. Bill Bowring

# The defense of human rights and the right of resistance in the area of the war on terror

Professor Bill Bowring
London Metropolitan University

## Introduction

History is repeating itself in Britain. Whether it will repeat itself as farce, only time will tell. One thing is certain. Tony Blair and Charles Clarke are trying to put in place the most reactionary legislation in modern times.

The second reading of the Prevention of Terrorism Bill on 26 October 2005 revealed a stark contradiction at the heart of the government's proposals. During a 75 minute speech, Charles Clarke was adamant on the broad principle that Britain had pioneered many of the modern world's liberties, but also insisted that Britain would have to "fight for democracy" using unprecedented means to defeat the nihilistic demands of Islamist terrorism[1]. The third term of the syllogism was missing. In order to bring about his desired victory, his "broad principle" will have to be destroyed. When he opened the debate the previous day, he used a chilling phrase. He claimed that opponents of his bill would leave Britain fighting terrorism with "one legal hand tied behind our back".

In fact, the strong rope which so far binds Mr Clarke is the Human Rights Act 1998, based on the European Convention on Human Rights of 1950. It should be noted that the Convention sets out the basic principles which were considered to be an essential statement of the West's understanding of essential rights in the context of the Cold War.

We should remind ourselves what is at stake. Not only is Mr Clarke determined to win his new offence of "glorifying terrorism"; he has made it clear that if he cannot get a full 90 days to hold terrorist suspects without charge, then the least he might settle for is 28 days. This would most certainly violate the Convention and the Act. To our shame, Britain would once more have to derogate from her responsibilities under the Convention.

Charles Clarke's new offence of "glorifying terrorism" will make it a criminal offence to support a "terrorist" movement anywhere in the world. On 11 October, at the Home Affairs Select Committee, he said "I cannot myself think of a situation in the world where violence would be justified to bring about change."[2] . Not far away from the spot where Charles Clarke was speaking, there is a statue, sword in hand, his back to the Parliament he defended by force, of – Oliver Cromwell.

At the Committee's meeting, Clarke was asked whether he might have been caught by such legislation as a student politician supporting Nelson Mandela's struggle against apartheid in South Africa. He plainly regarded the question as impertinent. At the second reading debate, John Denham, the Committee's Chairman raised the following question: "If an Uzbek, living in Uzbekistan, supported the destruction of a statue as a symbol of opposition to the tyrannical regime in that country, they would be guilty of an offence… and liable to prosecution and seven years imprisonment should they come to this country." Clarke had no coherent answer.

All the anti-colonial movements, all the 20th Century's movements for national liberation, must now be re-categorised as “terrorist”.

The UK Anti-Terrorism Legislation
The Terrorism Act 2000 provided the broadest definition in UK history of “terrorism”, and, by an Order made on 29 March 2001 (Terrorism Act 2000 (Proscribed Organisations) (Amendment) Order 2001 (“the Order”)), the first under the Act, 21 organisations were proscribed through provisions which allow for the banning of organisations which the Home Secretary believes are involved in terrorism, or promote or encourage terrorism.[3]

There are severe penalties for membership of or support for such proscribed organisations, although it is notable that no-one has been prosecuted for association with or support for the PMOI. On the contrary, a number of members of the House of Commons and the House of Lords have demonstratively associated themselves with events protesting about the treatment of the PMOI.

The definition contained in the Act is as follows:
“1. - (1) In this Act "terrorism" means the use or threat of action where-
(a) the action falls within subsection (2),
(b) the use or threat is designed to influence the government or to intimidate the public or a section of the public, and
(c) the use or threat is made for the purpose of advancing a political, religious or ideological cause.
(2) Action falls within this subsection if it-
(a) involves serious violence against a person,
(b) involves serious damage to property,
(c) endangers a person's life, other than that of the person committing the action,
(d) creates a serious risk to the health or safety of the public or a section of the public, or
(e) is designed seriously to interfere with or seriously to disrupt an electronic system
(3) The use or threat of action falling within subsection (2) which involves the use of firearms or explosives is terrorism whether or not subsection (1)(b) is satisfied.
(4) (4) In this section-
(a) "action" includes action outside the United Kingdom,
(b) a reference to any person or to property is a reference to any person, or to property, wherever situated,
(c) a reference to the public includes a reference to the public of a country other than the United Kingdom, and
(d) "the government" means the government of the United Kingdom, of a Part of the United Kingdom or of a country other than the United Kingdom.

Statewatch said that the “New definition of "terrorism" can criminalise dissent and extra-parliamentary action.”

(5) In this Act a reference to action taken for the purposes of terrorism includes a reference to action taken for the benefit of a proscribed organisation.”

This definition has been subjected to fierce criticism. Statewatch said that the “New definition of "terrorism" can criminalise dissent and extra-parliamentary action.”[4] We also note that it fails to define what precisely it is about “terrorism” which adds anything to ordinary serious crimes. Influencing a government, or even intimidating the population cannot do the job. Otherwise “Age Concern” (which campaigns for the elderly) or football hooligans must be terrorists. In this way the term becomes completely meaningless.

## Proscription – terrorist lists

How, we ask, can it then be possible to move to proscribe organisations with any degree of legal certainty, adherence to the rule of law, or proportionality?[5]

The Order was debated in the House of Commons on 13 March 2001 and in the House of Lords on 27 March 2001. In the debate in the House of Commons, the then Home Secretary, Jack Straw stated that in considering which organisations should be proscribed, he took into account a number of factors including:-
(1) the nature and scale of the organisation’s activities;
(2) the specific threat that it poses to the United Kingdom;
(3) the specific threat that it poses to British nationals overseas;
(4) the extent of the organisation’s presence in the UK; and
(5) the need to support other members of the international community in the global fight against terrorism.[6]

It should be noted that the 21 proscribed organisations included Mujaheddin e Khalq. There are now 25 such organisations, including MEK.[7] In relation to the PMOI, the Order states as follows:
“The MeK is an Iranian dissident organisation based in Iraq. It claims to be seeking the establishment of a democratic, socialist, Islamic republic in Iran. The MeK has not attacked UK or Western interests. There is no acknowledged MeK presence in the UK, although its publication MOJAHED is in circulation here…”

During the two debates in Parliament, many MPs and Peers protested at the inclusion of the PMOI in the list of 21 organisations in the Order. There was also much concern at the inherent unfairness of 21 different organisations being placed in the Order, with little indication of the reasons for their selection, and MPs and Peers being asked to either accept or reject the entire list. The Liberal Democrat spokesman, Sir Menzies Campbell stated in the House of Commons debate:

"Does the Secretary of State understand the discomfort that some of us feel at the notion that 21 organisations should appear in the motion that we are debating, and that there has not been an opportunity to deal with each on an individual and separate basis?"[8]

Jeremy Corbyn, MP stated:
"This is a travesty of the way in which such an important and serious issue should be discussed. Debate is being limited to an hour and half, late at night, with a catch-all 21 different organisations that the Order proposes to ban. We have been given no opportunity to discuss those organisations in any detail, or to engage in any other form of parliamentary scrutiny of the legislation…The Home Secretary should also tell us…where the list came from. I am very well aware that the Indian government, the Turkish government, the Sri Lankan government, the Iranian government and undoubtedly many other governments have been constantly pressing the British government to close down political activity in this country by their opponents.[9]

With respect to the complaint about the unfairness of placing 21 organisations in a single list, the PMOI point to the fact that in September 2002 (after the PMOI had been proscribed), 331 MPs, a Commons majority, and 122 Peers declared in a statement, "We the undersigned, support the struggle of the people of Iran and the People's Mojahedin Organisation to achieve democracy and human rights as an essential part of the defeat of terrorism at home and abroad."[10]

> The Terrorism Act 2000 was followed by the Anti-Terrorism, Crime and Security Act 2001, which introduced indefinite detention without trial for foreign nationals.

On 21 October 2002 a Government Minister, Baroness Symons, said, in answer to a parliamentary question: "My Lords, the noble Lord may possibly have misheard me. I said that the National Council of Resistance of Iran undertakes fundraising and propaganda activities on behalf of the Mojahedin-e Khalq - the MeK - and that the MeK is a terrorist organisation proscribed in the UK. We believe that it is proscribed for very good reasons: it publicly acknowledges its responsibility for terrorist actions against government buildings in Iran and carried out a series of mortar bomb attacks in central Tehran in 2000, which resulted in death and injury. It is not the NCRI but the MeK that is proscribed."[11]

## The failed application to the English courts

On 17 April 2002 the High Court (Mr Justice Richards) gave judgment in an application to apply for judicial review by the PKK, PMOI, Nisar Ahmed and others against the Home Secretary.[12]

The applicants challenged the proscription of organisations under the Terrorism Act 2000, and the compatibility of the 2000 Act with the Human Rights Act 1998. The power to add an organisation to the list was given in Section 3 (3-5) of the 2000 Act, and "an organisation is concerned in terrorism if it
(a) commits or participates in acts of terrorism
(b) prepares for terrorism
(c) promotes or encourages terrorism, or
(d) is otherwise concerned in terrorism.

The Act provides for an application to the Home Secretary to remove an organisation from the list. If that application is refused, the applicant may appeal to the Proscribed Organisations Appeal Commission ("POAC").

According to the judgment, an application for deproscription of the PMOI was made on 4 June 2001, and was refused on 31 August 2001. The refusal was appealed to the POAC. Paragraphs 23 to 36 of the judgment set out in detail the PMOI complaints against the proscription of "Mujaheddin e Khalq", Lord Lester QC and Rabinder Singh QC, representing the PMOI, took a number of HRA points:
(i) infringement of the right to freedom of expression (article 10)
(ii) infringement of the right to freedom of peaceful assembly and freedom of association (article 11)
(iii) interference with the right to a good reputation pursuant to article 8
(iv) arbitrary and discriminatory treatment (article 14)
(v) lack of due process and procedural unfairness
(vi) lack of proportionality, and
(vii) failure to comply with the requirements of legal certainty and "prescribed by law".

The Court's decision was that the application for leave should be refused, on the grounds that the applicants, especially the PMOI, should complete their appeal to POAC. However, Mr Justice Richards stated that in his view the submissions made by the Secretary of State did not meet the real thrust of the challenge to the regime of penalties under the Terrorism Act and that the claims made by the PMOI, as set out above, were arguable.

In the end the POAC proceedings were withdrawn, after the UK and US decision to bomb the PMOI camps on the Iranian border in April 2003. The PMOI state that this was despite their having taken a series of steps to ensure that they did not become a party to the war.

## Indefinite detention without charge

The Terrorism Act 2000 was followed by the Anti-Terrorism, Crime and Security Act 2001, which introduced indefinite detention without trial for foreign nationals.

However, on 16 December 2004, in a blow to the government's anti-terror measures, the House of Lords ruled by an eight to one majority in favour of appeals by nine detainees. The Law Lords said the measures were incompatible with European human rights laws, but Home Secretary Charles Clarke said the men would remain in prison. He said the measures would "remain in force" until the law was reviewed.[13] The nine Law Lords found that Section 23 of the ATCSA 2001, which allows for the indefinite detention without charge or trial of non-British nationals, violated the detainees' human rights because the provisions were disproportionate and discriminatory. The detainees under this legislation have been held under severely restrictive regimes in high security prisons and in a high security psychiatric hospital, one of them is under "house arrest". Concern about their mental and physical health was heightened by the findings of a report -- published on 13 October 2004 -- prepared by 11 Consultant Psychiatrists and one Consultant Clinical Psychologist about the serious damage to the health of eight of the detainees.[14]

On January 26, 2005 the Home Secretary announced his intention to introduce legislation on control orders; however the Government apparently had not yet decided when to introduce the legislation and whether they would also call for a continuance of the detention powers until the new bill on control orders was able to be debated and become law. On 22 February 2005 the UK Government announced a new policy of control orders, providing a deprivation of liberty to British and foreign nationals, upon an order given by the Home Secretary. Apart from the great controversy as to what constitutes a control order versus house arrest, and how the power of house arrest will be administered, the significant point of debate surrounds authorization of this new power. The Government insists on giving itself the authority to order such a deprivation of liberty. Amnesty International commented that the prevention of terrorism bill makes a mockery of human rights and the rule of law and contravenes the spirit, if not the letter, of the December 2004 Law Lords' judgment. The United Kingdom (UK) Home Secretary Charles Clarke unveiled his proposals for "control orders" which range from tagging to "house arrest" without charge or trial and would apply to UK citizens and foreigners alike. The decision to impose such orders will be taken by the executive alone. The introduction of "house arrest" without charge or trial requires derogations from the European Convention on Human Rights (ECHR) and the International Convention on Civil and Political Rights (ICCPR).

The Government repealed the Part 4 powers under the Anti-Terrorism, Crime and Security Act 2001 and replaced them with a system of control orders under the Prevention of Terrorism Act 2005 which received Royal Assent on 11 March 2005.[15] The Prevention of Terrorism Act allows for control orders to be made against any suspected terrorist, whether a UK national or a non-UK national, whatever the nature of the terrorist activity (international or domestic). The Home Secretary is required by Section 14(1) of the Act to report to Parliament as soon as reasonably possible after the end of the relevant three-month period on how control order powers have been exercised during that time.

All the men formerly held without charge or trial in British high security institutions have been released and served with 'control orders'. Some of them had been held since December 2001 and still do not know the grounds for their detention.[16]

Five suspects - Abu Qatada and the men known only as E, H, K and Q - were taken from Belmarsh to Colnbrook secure immigration centre in west London earlier.[17] Suspect P, an Algerian who was held at Broadmoor, appeared before Siac judges in person on Friday and was freed after being electronically tagged. The remaining two, Abu Rideh and suspect B, who had also been detained at the high security mental hospital, were freed on Friday evening.

An Algerian man known as A was released by Siac on Thursday, while suspect G, being held under house arrest, had his bail conditions relaxed. The former detainees face bail conditions which include:

* Electronic tagging
* A night-time curfew from 1900 to 0700
* A ban on using mobile phones and the internet
* Obtaining permission from the Home Office if they wish to meet anyone outside their home
* Living at an address notified to the Home Office and police, who can search the property without warning
* No visitors unless the Home Office has been notified in advance, except for under-16s
* Notifying the Home Office of any intended departure from the UK, and the port of embarkation
* Bank account restrictions and sending monthly statements to the Home Office.

The courts do have a role in authorising control orders, but the grounds for a judge refusing an order are restricted. On 8 June 2005 the Council of Europe's Commissioner for Human Rights, Alvaro Gil-Robles, said that control orders violate basic rights, a claim ministers deny.[18] The measure effectively places a person under house arrest if the home secretary believes it is necessary.

In his report, Mr Gil-Robles said it did not seem to him that the "weak control" offered by judicial review proceedings satisfied the usual powers for what would be considered criminal charges. "The proceedings, indeed, are inherently one-sided, with the judge obliged to consider the reasonableness of suspicions based, at least in part, on secret evidence, the veracity or relevance of which he has no possibility of confirming in the light of the suspect's response to them. "Quite apart from the obvious flouting of the presumption of innocence, the review proceedings described can only be considered fair, independent and impartial with some difficulty." The measures could only be made compatible with the European Convention on Human Rights if necessary judicial guarantees were applied to proceedings and there were regular parliamentary reviews of the legislation, he said.

## Derogation from the ECHR

It is far from clear that the threat to the United Kingdom since September 11, 2001, has met the high threshold for a public emergency required under article 15 of the ECHR. The government did not base its decision to derogate on the existence of a specific threat. In a statement to parliament on October 15, 2001, the Home Secretary said that "there is no immediate intelligence pointing to a specific threat to the United Kingdom." Nor has the government convincingly demonstrated why ordinary criminal law measures and existing counter-terrorism legislation—described by the Joint Human Rights Committee as the most "rigorous" in Europe—are insufficient.[19] Unless both conditions are satisfied, derogation is not simply inappropriate, but is also contrary to the U.K.'s obligations under human rights law.

The existence of a public emergency that threatens the life of the nation is a precondition for derogation under the ECHR and ICPPR.[20] The U.K. government has repeatedly asserted that a public emergency within the meaning of both treaties exists in the U.K. While the government plainly has access to classified intelligence, several factors point toward the conclusion that no such emergency has existed at any time in the UK since September 2001.

First, the threshold for the existence of a public emergency is a high one. According to the European Court of Human Rights, which has generally shown itself willing to grant wide discretion (or in legal terms, a "margin of appreciation") to states in combating terrorism, a public emergency under article 15 is "an exceptional situation of crisis or emergency which affects the whole population and constitutes a threat to the organized life of the community of which the State is composed."[21] Second, as the Joint Committee on Human Rights has observed: "No other State party to the [European] Convention or the International Covenant has made such a derogation in the wake of 11 September 2001."[22] The ICCPR has at least 151 states parties and the ECHR 46 states parties.

Derogation also requires that even where a public emergency exists, any measures taken in breach of suspended human rights obligations must be strictly required by the situation. In particular, the state must establish why it believes that ordinary judicial intervention is not an effective tool for addressing the situation.[23] The U.K. has extensive experience in dealing with terrorism through the courts and has wide-ranging anti-terrorism criminal law provisions, including the Terrorism Act 2000, which allows the police to arrest a person suspected of terrorist activities without a warrant, and permits detention without charge for up to 7 days (compared to a maximum of four days in ordinary criminal cases).[24]

The U.N. Human Rights Committee has expressed "concern" about the measures contained in the act, which it stressed in December 2001 "may have far reaching effects on rights guaranteed in the Covenant [the ICCPR]."

The U.N. Human Rights Committee has expressed "concern" about the measures contained in the act, which it stressed in December 2001 "may have far reaching effects on rights guaranteed in the Covenant [the ICCPR]."[25] The U.N. Committee on the Elimination of Racial Discrimination has expressed "deep concern" about indefinite detentions under the act, and recommended in December 2003 that the U.K. government "balance [national security] concerns with the protection of human rights and its international legal obligations." In December 2001, Council of Europe Human Rights Commissioner Alvaro Gil-Robles went further, arguing that "[e]ven assuming the existence of a public emergency, it is questionable whether the measures enacted by the United Kingdom are strictly required by the exigencies of the situation."[26]

The derogation from the ECHR has been the subject of legal challenge in the U.K. In July 2002, the SIAC considered a challenge to the derogation as a preliminary issue to appeals by nine detainees against their certification as "suspected international terrorists." SIAC determined that the derogation from article 5(1) was unlawful on the ground that it breached the non-discrimination provision under article 14 of the ECHR, from which the U.K. government had not derogated. Since the derogation was unlawful, the SIAC held that the detention provisions breached ECHR articles 5 and 14. In the words of the judgment: "[a] person who is irremovable cannot be detained or kept in detention simply because he lacks British nationality."[27]

The SIAC did accept that there was a public emergency within the meaning of article 15 of the ECHR.[28] The court based its decision on classified intelligence material and publicly available evidence. In October 2002, the Court of Appeal heard a cross appeal by both the government and the detainees against the SIAC decisions.

The appeal was limited to reviewing potential errors of law. The Court of Appeal reversed SIAC's finding on discrimination, accepting the government's arguments that foreign nationals had no right to remain in the U.K., thereby making differential treatment permissible. It also rejected the detainees' appeal against the SIAC's conclusion that a public emergency did exist.

## The latest Anti-Terror legislation

The latest Terrorism Bill is the UK Government's reaction to the attacks on

London in July 2005. It is obvious that the state is under an obligation to take appropriate steps to protect the lives and safety of people within the United Kingdom. Now that the UK has been subjected to direct terrorist attack, it is inevitable that there be consideration of laws and powers available to agents of the state.

However, as so often in the past, there has been a hasty assumption that new legislation must be at least a considerable part of the answer. This section draws from the response of the leading civil liberties protection organisation in the UK, Liberty.[29]

When the draft bill was published towards the end of the summer of 2005 it contained a strict liability offence of glorification of terrorism and allowed for 90 days detention without charge. When published in the House of Commons the glorification offence had been subsumed into the offence of encouragement to terrorism. This applied a test of negligence, rather than criminal responsibility, to statements encouraging terrorism.

At report stage in the House of Commons the Government lost a vote on 90 day detention. A lesser extension of 28 days, proposed by the Labour MP David Winnick, was passed instead. The Government also introduced an amendment to the offence of encouragement of terrorism, introducing a recklessness test to replace the existing negligence test. Despite these changes , there are fundamental concerns over the human rights and civil liberties implications of the Bill.

Criminalisation of speech with no intent for others to commit crimes, along with extended detention without charge still have the potential to undermine centuries of democratic tradition in England. They are also likely to be counterproductive and will have a significant impact on race and inter-faith relations and the broad national unity that is essential to the flow of intelligence and other vital aspects of cooperation with the authorities. This is especially true of the 28 daytime limit on pre charge detention. While this is preferable to the 90 day limit originally planned it still doubles the existing limit.

Human Rights activists maintain that before any extension can be justified there should be full consideration of what other, more proportionate, measures could be taken to allow the police to deal with the problems

## Conclusion

It is clear that the UK's anti-terror legislation poses grave threats to human rights and civil liberties not only in the United Kingdom, but through the "threat of a bad example", the whole of the European Union. The recent judgments of the Court of First Instance of the EU's European Court of Justice of 21 September 2005 in the cases of Ahmed Ali Yusuf and Al Barakaat International Foundation vs Council of the European Union and Commission of the European Communities[30], and Yassin Abdullah Kadi vs Council of the European Union and Commission of the European Communities[31], show that the resolutions of the UN Security Council are now taken to "trump" European standards for the protection of human rights.

The Court decided as follows in Yusuf: "In this instance, as is apparent from the preliminary observations above on the relationship between the international legal order under the United Nations and the Community legal order, the Community institutions were required to transpose into the Community legal order resolutions of the Security Council and decisions of the Sanctions Committee that in no way authorised them, at the time of actual implementation, to provide for any Community mechanism whatsoever for the examination or re-examination of individual situations, since both the substance of the measures in question and the mechanisms for re-examination (see paragraphs 309 et seq. above) fell wholly within the purview of the Security Council and its Sanctions Committee. As a result, the Community institutions had no power of investigation, no opportunity to check the matters taken to be facts by the Security Council and the Sanctions Committee, no discretion with regard to those matters

It is clear that the UK's anti-terror legislation poses grave threats to human rights and civil liberties not only in the United Kingdom, but through the "threat of a bad example", the whole of the European Union.

and no discretion either as to whether it was appropriate to adopt sanctions visàvis the applicants. The principle of Community law relating to the right to be heard cannot apply in such circumstances, where to hear the person concerned could not in any case lead the institution to review its position."[32]

While in Kadi it held:
"Last, the Court considers that, in the absence of an international court having jurisdiction to ascertain whether acts of the Security Council are lawful, the setting-up of a body such as the Sanctions Committee and the opportunity, provided for by the legislation, of applying at any time to that committee in order to have any individual case re-examined, by means of a procedure involving both the petitioned government' and the designating government' (see paragraphs 263 and 264 above), constitute another reasonable method of affording adequate protection of the applicant's fundamental rights as recognised by *jus cogens*."

The effect of these decisions is to allow considerations of state security to trump human rights standards. In my view, blacklisting an organisation or individual, and freezing their assets, without granting the organisation the right to challenge this blacklisting and freezing, in a court fully satisfying the requirements of Art. 6(1) ECHR, in proceedings in which the factual and legal basis for the blacklisting and freezing is properly and fully, judicially examined, violates the right of access to court as guaranteed by that provision of the Convention.

---

1 Michael White, Guardian, 27 October
2 Guardian, Alan Travis and Michael White, 12 October
3 See L Fekete "The Terrorism Act 2000: an interview with Gareth Peirce" (2001) v.43(2) Race and Class pp.93-103
4 http://www.statewatch.org/news/2001/sep/15ukterr.htm
5 Professor Greenwood states with admirable clarity a position very close to that of the UK government, in C Greenwood "International law and the 'war against terrorism' (2002) 78 International Affairs pp.301-317
6 Hansard, Tuesday 13 March 2001, Volume 364, No.50, 483 CD0050-PAG1/65 and 484 CD0050-PAG1/66
7 See the Home Office web-site at http://www.homeoffice.gov.uk/terrorism/threat/groups/
8 Hansard, Tuesday 13 March 2001, Volume 364, No.50, 484 CD0050-PAG1/66
9 Hansard, Tuesday 13 March 2001, Volume 364, No.50, 492 CD0050-PAG1/74
10 The House Magazine, The Parliamentary Weekly, No. 1006, Vol. 27, 30 September 2002
11 http://www.publications.parliament.uk/pa/ld199900/ldhansrd/pdvn/lds02/text/21021-03.htm
12 Case Nos. CO/2587/2001,l CO/4039/2001 and CO/878/2002, transcript at http://hei.unige.ch/~clapham/HRClass2002/NationalDecisions/UK/pkk.doc
13 http://news.bbc.co.uk/1/hi/uk/4100481.stm
14 http://news.amnesty.org/index/ENGEUR450042005
15 http://security.homeoffice.gov.uk/counter-terrorism-strategy/legislation/pta/
16 http://www.liberty-human-rights.org.uk/issues/internment.shtml
17 http://news.bbc.co.uk/1/hi/uk/4338849.stm
18 http://news.bbc.co.uk/1/hi/uk_politics/4071968.stm
19 Joint Human Rights Committee, "Second Report, 2001-02 session," November 16, 2001, para. 30.
20 ICCPR Article 4(1) "In time of public emergency which threatens the life of the nation…"; ECHR Article 15 also allows derogation in wartime, "In time of war or other public emergency threatening the life of the nation…"
21 Lawless v. Ireland (1979-80) 1 EHRR 15, para. 28.
22 Joint Committee on Human Rights, "Sixth Report, 2003-04 session," February 24, 2004, para. 18.
23 European Court of Human Rights, Aksoy v. Turkey (1997) 23 EHRR 553, para. 78.
24 The Joint Human Rights Committee has noted that the "United Kingdom's armoury of anti-terrorism measures is already widely regarded as among the most rigorous in Europe." Joint Human Rights Committee, "Second Report, 2001-02 session," November 16, 2001, para. 30.
25 U.N. Human Rights Committee, "Concluding Observations: United Kingdom," December 6, 2001.
26 Council of Europe, "Opinion 1/2002 of the Commissioner for Human Rights."
27 SIAC, A, X and Y and others v. Secretary of State for the HomeDepartment, para. 94.
28 SIAC, A, X and Y and others, para. 35: "We are satisfied that what has been put before us in the open generic statements and the other material in the bundles which are available to the parties does justify the conclusion that there does exist a public emergency threatening the life of the nation within the terms of Article 15."
29 http://www.liberty-human-rights.org.uk/index.html; the author is a member of the Council of Liberty
30 Case T-306/01
31 Case T-315/01
32 Para 328

## ANNOUNCEMENTS

* The IAPL will hold its 3rd Congress on October 13-15, 2006 in the Philippines.

* In cooperation with IAPL members in the Philippines, representatives of Lawyers for Lawyers, Lawyers Without Borders and the International Association of Democratic Lawyers will go on a Fact-Finding Mission to the Philippines on June 16-20, 2006 to investigate the worsening human rights situation in the country.

# Combating terrorism in the Netherlands: Implementation of the framework decision on terrorism

*Professor Emeritus Ties Prakken*

After 9/11 the Counsel on Justice and Home Affairs reacted within a few weeks with a draft framework decision on terrorism. This could be done so quickly because it was already on the shelves but up to that time, politically unfeasible. Until that moment, unlike in many other European countries there was no special legislation against terrorism in the Netherlands, no definition of terrorism and no special procedures. The only thing was the European Convention on combating terrorism that originated from the seventies, when the RAF in Germany the Brigate Rossi in Italy and the IRA on the British Isles were active. But in that treaty the word terrorism was only in the title and not defined at all. At that time we were against it because it labeled pre-eminently political actions beforehand as non-political. But after all it only said that in extradition cases, the political exception that was not applicable were cases of certain crimes such as kidnapping and skyjacking. Since the European arrest warrant, there is no longer extradition within Europe, and we need not bother about this treaty.

We have to be concerned about the 2002 framework decision on terrorism and its implications for the EU member states. In the Netherlands the tone is set since the implementation of that framework decision in our legislation. The Act on terrorist offences, in force since 2004 goes much further than required by the framework decision.

In the framework decision we read: Each Member State shall take the necessary measures to ensure that terrorist offences include the following list of intentional acts which, given their nature or their context, may seriously damage a country or an international organization, as defined, as offences under national law, where committed with the aim of:
(i) seriously intimidating a population, or
(ii) unduly compelling a Government or international organization to perform or abstain from performing any act, or
(iii) seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organization: (follows a list of offences to be included).

In the Dutch anti terrorism Act 'seriously intimidating a population' has become: 'a population or part of the population'. The aim of this addition was to include certain forms of political activism like the animal liberation movement.

But there is much more in the Act on terrorist offences, also not required by the framework decision. To begin with, the criminalisation of *recruitment for the armed struggle* . Here is meant is of course, the jihad. But the participants of a training camp of the PKK are prosecuted *inter alia* on the basis of this section.

Finally there is a huge extension of criminal conspiracy. Originally only conspiracy against the state or the royal family was punishable, but now also conspiracy to offences like arson and other forms of creating danger is punishable if committed with a terrorist intention. Criminal conspiracy means the criminalization of making an agreement and that means necessarily the investigation by pro-active police methods and predominant participation of the secret services in that investigation.

### The bill on protected witnesses

The legal definition of terrorist intention made it possible to create special investigating rules and special procedures for those terrorist offences. Almost adopted is a bill on protected witnesses. With a protected witness is meant an agent of the secret services.

The reasons for this bill were two trials against supposed Muslim terrorists that resulted in an acquittal and in the subsequent frustration of the Minister of Justice.

The Rotterdam regional court has acquitted some terrorist defendants because the only suspicion came from information by the secret services. The point of view of the defense was of course that it was unable to control the legality of the investigation. The defense opposed the use of an undercover agent by the secret services without respecting the legal requirements that are to be met by the police when they make use of an undercover agent and without any other legal basis as required by article 8 of the European Convention on Human Rights (ECHR). Also there was no opportunity at all to interrogate the agents as witnesses, even not under the procedure for threatened witnesses that is in our code of criminal procedure. The only witness that could be interrogated was the Director of the Secret Services, who successfully invoked his obligation of secrecy.

Therefore the procedure was not in conformity with article 6 of the ECHR. The court had a different approach and emphasized the difference between police investigation and the collecting of information by the secret services. The latter is not to be controlled by the judiciary and for that reason the police that received the information from the services, has to commence its own investigation in order to confirm the suspicion in a way that might be controlled by the defense and by the judge. As the police and the prosecutor in fact did not add any investigation to what the services had done, and the investigating judge ordered a house search and the arrest of the suspects on the only grounds provided by the secret services, the origin of the suspicion was not controllable and for that reason the defendants were acquitted. The minister of Justice reacted in the media by saying that in case this decision would not be redressed by the Court of Appeals, he would propose new legislation.

Although the Court of Appeals did convict the accused, new legislation was introduced anyway. The reason must be that also the Court of Appeals pronounced its doubts about the possibility of using information of the secret services as evidence. In this case the court did not need the information as evidence, being the discussion only on the origin of the initial suspicion against the accused.

A new bill therefore has been introduced that makes it possible to use this kind of information as evidence, with the possibility that an investigating judge may interrogate an agent of the secret services on request of but in the absence of the Defense Counsel, who may only ask written questions. The worst of this act is that it is finally up to the secret services to decide whether the statement of its agent before the investigating judge is to be disclosed or not. In addition, a specialized Investigating Judge will be introduced in accordance with the French model. This is not attractive at all because anti-terrorist judges are obviously closer to the secret services than to the judiciary.

An association of judges has advised critically on this bill on special procedures for terrorist crimes and a member of the Supreme Court has written – on personal title, – a short article in a newspaper and in a juridical revue that was very critical about the anti-terrorist legislation in general. So there is some hope for counterbalance from the Judiciary.

### Other special procedural law in the making

In September 2004 further procedural legislation was announced by the Minister of Justice in order to facilitate the investigation and prosecution of terrorist offences.

The most important features of this bill are:

The applying of proactive police methods and coercive means on the basis of a lower degree of suspicion than normally required.

In a stage were even no suspicion at all has yet risen, the connection of databases is allowed.

But the most extreme proposal is the arrest for two weeks on a lower degree of suspicion than normally required and the continuation of pretrial detention for two years without precise specification of the charge and without full disclosure. This sounds like secret political processes without any effective defense being allowed.

### The criminalization of glorifying or denying serious (terrorist) crime

This proposal, which is an obvious attempt to criminalize not only terrorism but also the debate on terrorism, and therefore is an attack on the freedom of speech, does not have much chance anymore since the conservative Liberal Party finally remembered its liberal ideology and announced to vote against it.

### The position of the judiciary

Whereas all this legislation (with an exception of the Act on Terrorist Offences that is already in force) is still in the making, some trials against supposed terrorists are going on under the old law. Recently a certain Samir A. was prosecuted for preparing a criminal attack against the building of the secret services in the Hague, Schiphol airport and the nuclear power station of Borsele, but acquitted by the regional court and the Court of Appeals with the motivation that he surely had wrong intentions but that his undertakings were so primitive and in no way elaborated that there was no real danger is his manner of acting. The Court of Appeals explicitly refused to condemn a person on the sole basis of his criminal intentions, because this would be against the will of our legislature.

Some of our current MP's however immediately pronounced as their opinion that the law had to be changed in order to avoid acquittals like this in the future.

### Administrative measures

It is not only criminal law that is in the making for combating terrorism, also administrative measures are being prepared. The first place is in the sphere of aliens law. 'Radical' persons will be refused entry to the country, even for a very short time, for instance, to give a lecture. An imam will be expelled today.

Legislature is prepared to make it possible to oblige a person who is not suspect of any

# The War on Terror in Europe is a deliberate strategy to criminalize every resistance against capitalism

*Atty. Raf Jespers*
*Progress Lawyers Network, Belgium*

Europe does not go against the "war on terror" of Bush. The attacks in New York, London and Madrid were the signal for Europe to curtail without any scruple, the fundamental rights of its citizens. Under the banner of "the war on terror," Europe has taken measures which up to a certain point, can be compared to the fascization of Europe in the '30's under Hitler and Mussolini.

**Terrorism has to be combated; innocent citizens have to be protected**.

There is no question that a state should arm itself against terror deeds like those from Al-Qaeda. These blind extreme right and fascist terrorist actions do not deserve our understanding. The victims of these actions are the innocent persons in the streets of New York, London and Madrid. So too are the Iraqi people, who are victims of the unlawful occupation in Iraq by the US and Great Britain. This state terrorism also does not deserve any understanding. These two forms of terrorism are each other's breeding ground. Without Al Qaeda Bush would have had a more difficult time invading Iraq and taking drastic measures against the fundamental rights such as in the Patriot Act. The invasion of Iraq and the terror of the United States against the people became the pretext for all sorts of fundamentalists to meddle in the Iraqi quagmire.

**Power lines from the European anti-terror policies.**

The European Union (EU) is currently composed of 25 countries. The policy of the EU rests on three pillars: the economy, foreign affairs and justice/interior affairs. The EU policies against terrorism are defined by the Ministers of Justice and Interior Affairs. In reality, the police, security, information and the Public Prosecutor of the EU, in secret consultations, write the texts which the Ministers later approve.

**1. Exceptional legislation and the EU-list of "terrorists"**

On 19 September 2001, barely 8 days after 9/11, the EU came up with a framework decision against terrorism and a framework decision for a European warrant of arrest.

Because of the framework decision against terrorism, all EU countries were obliged

*Page 13* ☞

---

☜ *Page 11*

offence to report to the police regularly or to give him an injunction, forbidding him to appear in a certain place or area.

## Conclusions

Politicians are bidding against each other to show that they are toughest against terrorism and crime, and they are extending terrorism towards radicalism. In a letter from the Minister of Justice to the Parliament of January 2005 we cannot only read that the budgets of all services concerned with terrorism will roughly be doubled, but also that radicalism is the target of government policy, particularly violent animal activism, right wing violence and radical anti-globalization. In practice this means that a movement that had always been left alone in the Netherlands such as the Kurdish PKK is now labeled terrorist. A trial is going on against the participants of an ideological training camp somewhere on a camping in the countryside. Until now the judiciary is sometimes moderate and jurists in general are counterbalancing more or less. But civil rights are seriously under attack. #

to draw up anti-terror legislation in their own penal codes. This happened in most of the countries. For example, Belgium and The Netherlands did this in 2004. This new legislation means a historical intervention in criminal legislation: for the first time in history, a very broadly defined and general political crime is added to the penal code, with heavy punishment and with punishment for mere membership (also when the person has done nothing wrong) .

The definition of a terrorist crime is clearly a political crime. What is defined as a terrorist purpose: dislocating or destroying the political, constitutional economic or social basic structures, forcing a government to abstain from an action; and inflicting grave fear on the population of a country.

These are pre-eminently political intentions.

Anyone, like the European dockworkers who want to compel the European Commission to withdraw its directive to liberalize the hiring of dockworkers, falls under this definition. Those who carry out anti-globalization activities against capitalism and who want another society, also fall under this category. So, this goes much further than combating Al Qaeda, and makes clear that Al Qaeda, in fact is a pretext to go after anyone who opposes in a radical way.

That this is the real strategy behind the EU anti-terror policy is confirmed by the so-called list of terrorist organizations and individuals. This list has been drawn up by the EU without any defense by the concerned and without any right to defend himself. As a consequence, anyone on the list is deprived of all financial means to undertake political actions, and that the branding with the label "terrorist" scares anyone who wants to be in solidarity with the person or organization. The criminalizing effect is therefore very grave. That the EU is not only after the Al Qaeda is evident because there are also liberation movements which for decades have been struggling against tyranny, oppression or occupation. Movements like the NPA (New Peoples' Army) in the Philippines, (and chief political consultant of the panel of the National Democratic Front of the Philippines in peace talks with the Government of the Republic of the Philippines, Professor Jose Maria Sison), PFLP (Popular Front for the Liberation of Palestine) or the Iranian Mujaheddin are on the list. The struggles of these organizations are legitimate under international law, but this right to (armed) resistance is now downgraded by the EU to a criminal act.

**2. From Terrorism to Extremism and Radicalism**

The "war against terror" is a conscious strategy of the EU (and the United States) against every resistance directed at neo-liberal capitalism. This is further made evident from the fact that since 2004, in one breath with terrorism, "extremism and radicalism" are put in the same category with terrorism. Naturally, the excessive profits of the multinationals in, for example, the bank or petroleum sector , are not meant here. The struggle against extremism is being peddled as a struggle against the fundamentalist and radical tendencies in the Muslim world and especially among Muslim migrants in Europe. But this flag does not cover the entire cargo. Under extremism is envisioned all individuals and organizations who in one way or another question the existing society, even environmental activists like Greenpeace. A striking example of this is the secret list of the police service in Antwerp (a port city in Belgium with 420,000 residents) which was exposed in 2005. In the list of "terrorist and extremist" organizations of the citiy were more than 200 names of persons and organizations, 99% of whom undertake legal and open social and political activities. These were migrant organizations, printing presses, humanitarian organizations, protectors of animal rights, and progressive lawyers. In this way, under the cover of the fight against terrorism, the most flagrant violations of the basic rights become "normal" practice. The existence of such a list means that persons and organizations will be followed, their privacy violated, their right to free organization and freedom of speech curtailed. In this way, the understanding of terrorism is expanded to all forms of protest and resistance in the political, trade union and social fields.

**3. Fundamental Rights Under Pressure**

The "war on terror" of the EU infringes on other fields. The framework decision on the European extradition order has as consequence that within the EU, extradition also of those politically suspected or convicted happens almost automatically. A country used to be able to refuse the extradition of the person in question if he was a citizen of the country, if he was a political refugee, if it was a political crime, or if there was

**"Because a gentleman in America has declared the war on terror, we have become lawyers in the time of war. The rights and freedom that Europe through the centuries, centimeter by centimeter has fought for, are now being reversed with many meters. The fundamentalists of prevention and repression threaten our rule of law more than the religious fundamentalists."**

threat that the person would be persecuted because of his religion, nationality or political beliefs. All of these fundamental guarantees, which were achievements in international law in the 19th century, are, with one blow, abolished.

Another phenomenon is that the exception laws like the anti terror laws lead to exceptional procedures and to strategies to avoid guarantees of due process. In this way the classic principles of criminal law are eroded. More and more, there is work on secret documents which the defense has no right to see. Special judges, special solicitors and even appointed lawyers (so that the free choice of a lawyer disappears) are being implemented.

A shift has been established from the repression through criminal law to the repression via administrative law, where even less guarantees exist for the defense than in criminal law. A typical but very terrible example is the "control orders" in the UK. With one control order, a person can be subjected for months to all sorts of control regulations (for example, house arrest, forbidden to exchange letters, telephone and visits from friends) can happen through a decision of the minister of internal affairs on the basis of a secret dossier without any full-fledged judicial review.

This example illustrates a more general tendency in the EU: the increasingly bigger hold of the executive authority (to the detriment of the legislative and judicial authority power). The executive authority, (EU Council of Ministers, EU commission, national governments, police, info and security services, solicitors) determine more and more which laws will be passed (they dictate these to the parliaments of the different EU countries and to the European Parliament) and they decide more and more on the practice of the repression. The control orders but also the EU list of so-called terrorists are the most typical examples of this. It is very important that in most of the EU countries, during the last few years, laws have been made allowing the police, secret and info services of the

From left to right: Atty. Raf Jespers, Prof. Ties Prakken and Atty. Edre U. Olalia

country entrance to use extraordinary investigation methods. These extraordinary investigation methods (tapping, infiltration, surveillance) are almost without judicial controls and so broad that every individual that is under suspicion to have the intention to commit a crime, can be the subject of this.

**4. What is Still in the EU Pipeline?**

The EU wants to sharpen the repression in two areas. First, they want the anti terror laws in EU countries to be even more broad so that the "apology" (the justification) of a terrorist act, will be punishable. This is a very dangerous tendency because this can lead to suppression of press freedom. Which journalist will now dare give news about, for example, liberation movements in the Third World if he himself will risk being accused of being a terrorist?

Secondly, the EU wants that the information that security services collect by using secret investigation procedures, can be used in criminal cases. The problem here is that this secret information, even during the court hearing, in large measure, must remain secret, which, naturally, leads to the giving of secret criminal dossiers and to special judges and specified lawyers who must guarantee this secrecy.

## Increasing Resistance

There is a growing resistance in the EU against this "war on terror" which has degenerated into a war against fundamental rights and especially to the criminalizing of every political and social movement that dares to questions the exploitation of capital with the scandalous profits and enrichment of a fraction of the population.

Jo Stevens, Chairperson of the Orde van Vlaamse Balies, (Order of Flemish Associations), and which represents more than 8000 lawyers in Belgium, expressed it in his New Year speech as follows: "Because a gentleman in America has declared the war on terror, we have become lawyers in the time of war. The rights and freedom that Europe through the centuries, centimeter by centimeter has fought for, are now being reversed with many meters. The fundamentalists of prevention and repression threaten our rule of law more than the religious fundamentalists."

This standpoint I can adopt wholeheartedly. It is also a call to the progressive lawyers in Europe and elsewhere, together with the broad social and trade union movement to wholeheartedly defend the fundamental rights, especially the right to social improvement. #

# THE FUNDAMENTAL RIGHT OF PEOPLES TO STRUGGLE UNDER INTERNATIONAL LAW

*Atty. Edre U. Olalia*
*Vice President*
*International Association of People's Lawyers (IAPL)*
*Public Interest Law Center—Philippines*

It is a disturbing practice now that some governments have condescendingly and erroneously labeled the legitimate struggles of peoples and their liberation movements as "terrorism." As a matter of fact, the fight against terrorism is being used as a smokescreen to misrepresent as common criminals, movements and individuals engaged in the struggle for liberation.

But there is already a well-established view that liberation movements are considered to have a locus standi in international law in the context of the struggle of peoples in the exercise of their right to self-determination against colonial domination, alien occupation or racist regimes.

Indeed it has been correctly said that "[I]nsistence on non-violence and deference to all established institutions in a global system with many injustices can be tantamount to confirmation and reinforcement of those injustices. In certain circumstances, violence may be the last appeal or the first expression of demand of a group or unorganized stratum for some measure of human dignity."

The preamble of the Universal Declaration of Human Rights of 1948 itself declares, for instance, that "it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law." This right of a people to revolt is not only an inherent right that has been invoked, accepted, and affirmed universally throughout history but is also a recognized principle of international law.

The fact is since 1960, the authority to use force in the exercise of the right to self-determination had been extended by positive international law to national liberation movements through various instruments. Some of these would include Articles 1 and 55 of the United Nations Charter; General Assembly Resolution 1514 (XV) of 1960 containing the Declaration on the Granting of Independence to Colonial Countries and Peoples; and Articles 1 (1) of both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights of 1966.

Thus it had been earlier observed that "the developments which have taken place both in the international community and, consequently in international law, have led progressively and cumulatively to the establishment and consolidation of the international character of wars of national liberation; and this both within and outside the framework of international organizations, as a result of practice and consensus, on the basis of the principle of self-determination."

The consensus of learned scholars is that the most significant achievement in this respect is the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations. This was adopted by the UN General Assembly Resolution 2625 (XXV) in 1970 which led to the universal recognition of the legally binding nature of the principle of self-determination.

In fact, in Resolution 2105 (XX) of 20 December 1965 of the General Assembly of the UN, it recognized the legitimacy of the struggle of colonial peoples against colonial domination in the exercise of their right to self-determination and independence, and it invited all States to provide material and moral support to national liberation movements in colonial territories.

By implication, the right of liberation movements representing peoples struggling for self-determination to seek and receive support and assistance necessarily means that they have a locus standi in international law and relations.

But even before the adoption of the said 1970 Declaration, different organs of the United Nations affirmed, on several occasions, the legitimacy of such liberation struggles. For instance, the General Assembly said in Resolution 2649 (XXV) (1970) that it:

Affirms the legitimacy of the struggles of peoples under colonial and alien domination recognized as being entitled to the right of self-determination to restore to themselves that right by any means at their disposal.

Not without basis, this Declaration has been construed to have effectively legalized the use of armed means to assert the right to self-determination.

It was posited that "the right to self-determination gave rise to a corresponding duty of other states to respect it. And states which use forcible means to deny a people of this right may be legally resisted by armed force as well. Hence, the legal basis of the politico-military means of ascertaining this right to self-determination. The process of this armed assertion is a war of national liberation; the politico-military group which represents a struggling people in that process is a national liberation movement."

Furthermore, there is a strong opinion that "a state that denies a people this right is liable for an international delict, a breach of duty owed under international law; and if that denial is done by resort to force, it is liable for the illegitimate use of force, contrary to the (UN) Charter itself."

In fact, each year thereafter, the UN General Assembly had passed resolutions of identical titles affirming the right to self-determination. Thus in: (a) Resolution 2787 (XXVI) of December 6, 1971, it 'confirmed the legality of the people's struggle for self-determination;' (b) Resolution 3070 (XXVIII) of 30 November 1973, it categorically affirmed the right to pursue self-determination 'by all means, including armed struggle;' © Resolution 3103 (XXVIII) of 12 December 1973, it reiterated this option in the Basic Principles of the Legal Status of the Combatants struggling against Colonial and Alien Domination and Racist regimes; (d) Resolution 32/147 on measures to prevent international terrorism of 6 December 1977, it again reaffirmed the inalienable right to self-determination and independence of all peoples under colonial and racist regimes and other forms of alien domination, and upholds the legitimacy of their struggle, in particular the struggle of national liberation movements; and (e) Resolution 48/94, of 20 December 1993 it asserted the importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights.

**This right of self-determination and the use of armed force by a legitimate national liberation movement may be exercised if there is a consistent pattern of gross and proven violations of human rights**

Additionally, both the 1966 International Covenant on Civil and Political Rights (ICCPR) and the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR) declare that "the right to self-determination, a fundamental principle of human rights law, is an individual and collective right to "freely determine [the] political status and [to] freely pursue [one's] economic, social and cultural development." The International Court of Justice moreover refers to the right to self-determination as a right held by people rather than a right held by governments alone.

Furthermore, national liberation movements, even if they are not states yet, can in fact become parties to the 1949 Geneva Conventions especially so that a wider interpretation of its applicability is more compatible with the humanitarian objective and purpose of the conventions on the laws of armed conflict. Specifically, international humanitarian law provides a particular mode for this, namely through Article 1, paragraph 4 in relation to Article 96, paragraph 3 of Protocol 1 Additional to the Geneva Conventions of 12 August 1949 wherein they can adhere and be bound to the standards of international humanitarian law in their armed conflict they are engaged in.

The principles and resolutions even of the United Nations as well as the history and development of international humanitarian law unanimously show that the intention is to bring in liberation movements within the ambit of such law.

A liberation movement, therefore, is asserting an international right against a state, which by denying that right, can be considered in breach of international obligations. Moreover, the use of armed force to deny a people of their right to self-determination is an act of aggression itself. The party thus aggrieved is entitled

# A Busy Year For People's Lawyers in Brazil

*Report of The Necleus of People's Lawyers-Brazil (NAP-Brasil)*

2005 has been a year of intense activity for the people's lawyers in Brazil. This was mostly during the last quarter of the year when the majority of the mass movement got a new impulse because of the corruption and mismanagement of the party of Luiz Inácio Lula da Silva.

Because Lula's vulgar populism and electoral opportunism have been unmasked, the masses have begun to get organized and are struggling for their rights in the cities and the countryside, where the contradiction between poor peasants and landlords has been aggravated. There is a growing number of struggles for land possession.

Lula's anti-people economic policies favor the big bourgeoisie, the landlords and imperialism. The persecution of social fighters and revolutionaries increases everyday with innumerable arrests, tortures and murders.

Though we are still a small group for such a large country, this year the peoples' lawyers has expanded to Rondônia and Goiás, and is expanding to Paraná, São Paulo and other states in the northeast. We are more concentrated in the states of Minas Gerais and Rio de Janeiro. We are aware of the fact that we need to grow. In different situations the lawyers are supposed to travel very long distances, sometimes for days, to defend the people's rights.

One of the cases the peoples' lawyers is handling is the case of Wenderson Francisco dos Santos ( known as Russo), who has been in

*Page 18* ☞

---

☜ *Page 16*

in international law to legitimately resort to armed means to resist such forcible denial of their right.

This right of self-determination and the use of armed force by a legitimate national liberation movement may be exercised if there is a consistent pattern of gross and proven violations of human rights amounting to a denial of the people's right to freely determine its internal and external political and economic status.

Hence, when armed resistance groups adhere and comply with the rules set out in international humanitarian law, they are not and should not be considered terrorist organizations but legitimate parties to a conflict.

It was aptly pointed out that "terrorism is almost always an expression of the ruling structures and has little to do with legitimate resistance struggles. It is a cruel extension of the scourge of terrorism to classify the struggle against terrorism as "terrorism".

Therefore, a national liberation movement is entitled to locus standi as an international person. In this connection, it has been advanced that a national liberation movement "may enjoy the benefits of international humanitarian protection as a matter of right, and not merely at the forbearance of the established government. It shall furthermore be freed of the handicaps inherent in the application of domestic jurisdiction, under which a liberation movement is presumed to be criminal and subversive, unless it otherwise proves to be ultimately successful. "

There are strong bases - backed up by existing international instruments, international reality and practice and progressive views and trends in international law and international humanitarian law - that would support the proposition that national liberation movements and their struggles have acquired and posses a level of legitimacy.

Necessarily, their use of armed force can also be recognized as a legitimate means in pursuit of their right to self-determination against colonial domination, alien occupation, racist regimes and against all other forms of neo-colonialism, systemic and systematic oppression and repression of peoples.

The dangerous tack in the present corrupted "war against terror" after September 11 in different state, bilateral and multilateral laws, agreements and policies and the arbitrariness of putting into various "terrorist" lists what are otherwise legitimate national liberation movements and their alleged leaders run counter to the above doctrines and trends in international law and are therefore legally untenable when measured by the standards, principles, and practice that have gained hitherto universal acceptance. It is an anomalous reversal and renewed betrayal of these basic principles in international law that liberation movements are labeled as "terrorists."

Clearly, international law recognize as a fundamental right the struggles of different peoples against exploitation, oppression, occupation, and tyranny and these struggles can not be validly regarded as "terrorism". #

Brazil

# LAWYERS IN THE SERVICE OF PEOPLE'S STRUGGLES

The Second Seminar of the Necleus of People's Lawyers – Brasil, (NAP-Brasil) was held in Belo Horizonte, Minas Gerais, on March 17th,18th and 19th , 2006. With the participation of lawyers from 8 Brazilian states, the Seminar also had the presence of Hakan Karakus, chairman of the International Association of People's Lawyers (IAPL).

At the opening of the seminar there was a supporting homage to the Judge Livingsthon José Machado who has recently been dismissed from his position without the right to defend himself. He suffered an intense defamation campaign from the media for having defended the constitutional rights of prisoners. He released 36 of them who shared with 103 persons crowded cells made for 38 occupants.

Chairman Hakan Karakus made the opening speech and talked about *"The Human Rights in the Constitution and the People's Rights"*. He emphasized the serious political crisis developing in the Philippines where the fascist government of Gloria Arroyo, an ally to Bush, is responsible for the death, disappearance and imprisonment of thousands of people. He also talked about the importance of the International Solidarity Mission to the Philippines in which judges and progressive lawyers from many countries like Malyasia, Canada, USA and Turkey participated. During that event, many demonstrations were organized in different places in the country, demanding justice for the people and the end of the repressive Arroyo government."

During the Second Seminar, lawyers from São Paulo city, Raphael Martineli and Luiz Cardoso, focused on the issue of the ex-political prisoners and political amnesty people and defended the access to the

Page 19 ☞

☜ *Page 17*

prison since 2003. The judge in charge has not accepted the demand from the Public Ministry to release him. Instead he has been transferred to a distant prison from his town where he was tortured and where they keep threatening to kill him. Wenderson has already escaped from many death attempts in prison planned by the landlords with the connivance of the local police. He is still alive due to the solidarity of the other prisoners who recognize his firm character and his commitment to the people's struggle.

Wenderson has also had to face the landlords' shady procedures who, through the Brazilian Lawyers Association of Rondônia state, tried to discredit his lawyer,Ermógenes Jacinto de Souza. The representatives of the Brazilian Lawyers Association of Rondonia have been in the prison and attacked the professional capacity of Ermógenes de Souza, accusing him of postponing his client's release.

In Goiânia, the capital of Goiás state, west-centre of the country, the IAPL nucleus is working well with professionals and Law students. Representatives of the nucleus have participated in the National Encounter of the Law Students (July/2005) where they distributed materials of the ANAP (National Association of People's Lawyers) and IAPL. They have organized a debate about "People's Lawyers - a new perspective for law students and professionals". And have also debated on the document " The Lawyer in Times of Insurgence", from the Philippine lawyer, Romeo Capulong (IAPL). They have also campaigned against the lawsuit of Barbara Flores, a student who was arrested during a demonstration against the imperialist war in Iraq, in front of the USA Consulate in Rio de Janeiro. Bárbara's lawyer is a member of the People's Lawyers nucleus in Rio.

In Belo Horizonte, state of Minas Gerais, the people's lawyers have been working hard to defend factory workers who have been arrested and persecuted. They have been accompanying union leaders who have to testify before the police. They have defended peasant leaderships and have supported other lawyers who have been attacked and are receiving death threats, among them, Ermógenes Jacinto de Souza.

Last October, there was a meeting in Belo Horizonte, of 10 lawyers and four law students to discuss Wenderson Francisco dos Santos' case and the threats to Ermógenes.

In November, the people's lawyers participated in a protest action against the persecution to peasant and worker leaderships. We have also participated in the World Social Forum in January 2005, in Porto Alegre. We have been present in some debates and in all parallel activities. The people's lawyers together with Cebraspo were the ones that organized a press meeting for the representative of the Iraqi Patriotic Alliance.

We have been giving support to the Committee of Family Members and Victims of Santa Elina ( a farm where the massacre of Corumbiara occurred, in August 1995, when many peasants were murdered and many others were seriously hurt).

We are now involved in a case with the Labor Ministry that wants to create a second Bus Drivers Union, in Belo Horizonte. They want the second union because the first one is militant and fighting for the rights of the bus drivers

The peoples' lawyers in Brazil are involved in a lot of cases and are trying to increase their numbers to cope up with all the demands nationwide. #

military dictatorship files, as well as the lawsuits against the torturers and murderers in the military dictatorship in Brasil. The lawyers are members of the Forum of the Ex-Prisoners and Political Amnesty People in São Paulo and exposed the criminal omission of Lula 's government which resists to open the dictatorship files publicly, and covering up the atrocities against the people perpetrated by the State repression.

Another important point discussed during the Seminar was the *"Agrarian Issue and the Juridical Order"*. Antonio Romaneli, a judge in Belo Horizonte, (ex-member of the Peasant League, organized in Brasil in the 60s) and Élcio Pacheco, from the ITER (Lands' Institute, Minas Gerais) debated the situation in the countryside. On behalf of the Poor Peasant League the peasants defended the right to the land for those who work on it and the need to destroy the landownership as the first step to apply an Agrarian programme that would have as an objective to release the productive forces in the countryside and start building, step by step, a New Power all over the country. The peasants exposed the failure of Lula's 'agrarian reform' that has done nothing but take the productive forces to areas where the landownership needs labour-force. Peasants who survived the Santa Elina battle (Corumbiara, Rondônia state, 1995) exposed the grave health problems they have as a result of the confrontation with the fascist police which, besides having killed 11 peasants - including a 6 year old little girl, Vanessa - made hundreds of victims with their tortures and ill-treatment.

The discussion on the criminalization of the people's struggle in Brasil was another important issue in the Seminar. The participation of the lawyer, Ermógenes Jacinto, from the Poor Peasant League in Rondonia, was very significant. His report exposed the terrible connection of the landlords in Rondonia with the local justice which has been persecuting and criminalizing the League's poor peasants. The recent case is the arrest of the peasant, Wenderson dos Santos, 'Ruço', who was illegally imprisoned in Urso Branco Prison, well-known by the inhuman treatment given to the prisoners and also by its horrible housing conditions. Such a situation demonstrates how bourgeois justice tries to criminalize the struggle of those who do not bend themselves before tyranny and do not shirk from the struggle. The Seminar also exposed the persecutions and threats against the lawyer Hermógenes Jacinto de Souza by the landlords in the region.

The issue of the criminalization of the people's struggle was discussed by everybody. It was pointed out that while those who order killings and tortures to the peasants and workers are never brought to justice for their crimes, the social fighters are criminalized by the bourgeois State as vandals, terrorists and other adjectives.

The topic about the trade unions and the counter-reforms of Lula's government had the participation of the lawyer, Aristeu César Pinto Neto, from the Institute José Luiz e Rosa, Santo André city, SãoPaulo state, and the lawyer, Alexandre Amaral, from Espirito Santo state. Both emphasized the ominous role played by the trade unions which are linked to the government and to the factory owners. According to the speakers such a link contributes to the demobilization of the workers because it erodes the autonomy, independence and awareness of the class struggle among the trade unions. They exposed the character of the labour and union counter-reforms of Lula's government which aim to increase the exploitation of the workers, and taking back the rights and social benefits they have acquired with blood and atruggle. The debate on the participation of the leadership of the Worker League brought out the need of combative unions in the midst of these setbacks for the working class movement, with the high unemployment rate and flexibilization of labour. The conclusion drawn from the debates was that the trade-unions cannot only be the field to fight for the workers' rights but itself one of the fields of struggle for making the unions a vehicle for the real emancipation of the workers.

In the last topic, the lawyer, Paulo Amaral, Rio de Janeiro state, spoke about the *"Role played by the people's lawyers and jurists as instruments of defence of the social struggles"*. Paulo Amaral displayed the need and the enormous importance of the people's lawyers work when talking about the concrete cases of criminalization of the social workers.

Daniel Dias de Moura, NAP-Brasil chairman – and one of the main responsibles for the Seminar – had a positive evaluation of the event and the debates. He called attention for the importance of the Seminar for strenghtening the work of IAPL general secretary in Brasil and in Latin America as well.

Hakan Karakus emphasized that the people's lawyers should not act as traditional defenders, *"performing technically their profession within the space designed for them by the system but as part of the class struggle mission. The people's lawyers must try to transform the courts into stages where the struggle and the people's rights, their resistance and revolt against oppression and exploitation are legitimized"*. And that was, at the end of the seminar, the commitment made by the people's lawyers in Brasil: struggle, be with the people and serve the people.

At the end of the seminar the folowing motions were approved:

1. Support to the struggle of the French students against the First Job Contract created by the French Prime Minister Villepin.
2. Denunciation of the US invasion of Irak and salute to the brave resistance of the Iraqi people against the 3-year imperialist yankee invasion.
3. Against the arbitrary imprisonment in March of the former ILPS Chairman and 73 year-old Congressman, Crispin Beltran, by the criminal Arroyo government.
4. Against the illegal imprisonment of the peasant leader, Wenderson dos Santos, in Rondônia, Brasil.

For the release of the political prisoners in Turkey, Philippines and all over the world.

NAP-Brasil has decided to print a magazine for better divulging the people's lawyers work on the whole country. #

# Rape—A weapon of patriarchal society

*By Atty. Hamida Siddique*

*During the IAPL Board Meeting of Dec. 1-2, 2005, Hamida Siddique, an Indian lawyer practicing in the High Court of Chattisgarh, India, described the situation of rape victims in India.*

Women are considered private property in a feudal society. The chastity of women is prized. Hence a power conflict usually includes sexual assault of women. The social stigma attached to it is making rape a weapon in the patriarchal society.

Raping a man's wife, mother, sister or daughter to teach him a lesson is a powerful weapon used not only by individuals but also by the state machinery to control nationality struggles, peoples' movements or revolutionary movements.

As lawyers, we often come across gruesome incidents of rape in the areas where people have been struggling to change the social system, or in land struggles, or for identity or democratic rights.

Kashmir and Northeastern states are examples where women are at high risk. In Kashmir, an entire village of unmarried women exists because it is a known fact that they were raped by the army.

In the name of searching for so-called terrorists, women are often made targets for sexual assault.

In places where the revolutionary movement is strong, the police and armed forces also use the same methods of repression. Andhra Pradesh, Chhattisgarh, Maharustra, West Bengal, Bihar, Tharkhand are such places.

In the Buntur district of Andhra Pradesh, the police raped three women. The matter could only be reported with the help of the national human rights commission and women's organizations.

The author Atty. Hamida Siddique giving her report.

Election time is yet another period where the women of Telangana, Rayalaseema and North Coastal Andhra are raped because of the presence of large numbers of paramilitary forces.

The worst and ugliest face of assault on women is the attack by communal forces during communal riots. Because of their feudal thinking, communal forces usually attack women during riots because it is considered a dishonor to the entire community.

Though these incidents take place in almost all the communal riots, the Guyrat experience is the worst. Biguis Rasod, a pregnant woman at the time of the riots was gang raped together with other members of her family. The unborn child was taken from her womb by the edge of a sword.

Almost two years after the riots, she is still fighting for the perpetrators to be punished. The police have wiped out the available evidence.

Rape cases are seldom reported. This is because society blames the women for the rape. Questions like: why has she gone out in the dark? Why does she frequently go out? Why did she go alone with a man? Why is she not wearing traditional dress? Is she of good character?

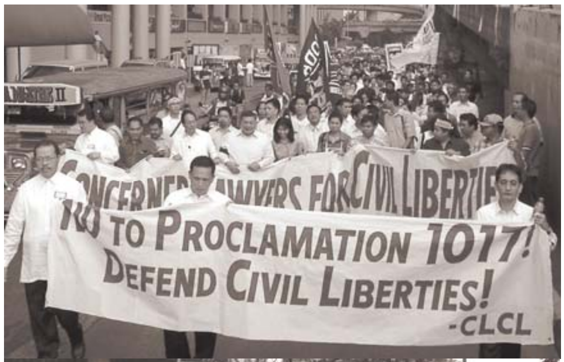
In a recent case, a student was raped by a constable. A political party blamed the girl for wearing a short top and low waist trousers, thus inviting sexual assault. It is well known that infants and aged women are also raped.

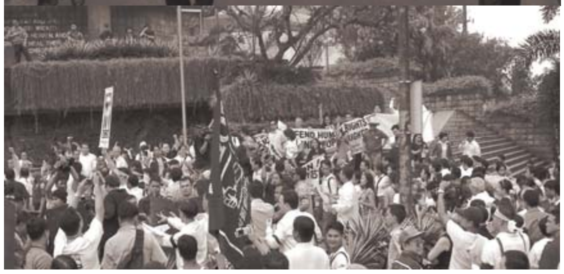
There are also reported cases of rape by police of women in custody. Many culprits are not charged because the police do not record the complaint, nor conduct a proper investigation.

Judicial response is rather shocking. Trials in Indian courts last for decades. So it is not surprising that 56,343 rape cases are pending before different courts. These are the 2003 figures. When the cases are finally heard, 70% of the accused are acquitted.

What is needed is to understand that it is the system that must change, whether it be the police force, the judiciary, the government or the economically and politically powerful sections in society.

Treating women as equals and respecting their rights is the first step towards this change. But can this really come about in a society that thrives on the exploitation and oppression of women? #





**Filipino lawyers marching to protest the declaration of "state of national emergency"by Philippine President Gloria M. Arroyo.**

# THE PHILIPPINES: A Deadly and Dangerous Place for Judges and Lawyers

Based on reports and studies by lawyers groups in the Philippines such as the Committee for the Defense of Lawyers (CODAL) and the media, there is an escalation in violence committed against members of the legal profession, particularly lawyers and judges. This is akin to the wave of attacks in the 1980s when more than 12 lawyers were killed for the reason of their practice of the legal profession.

We note that while six (6) members of the Philippine media suffered violent deaths since January 2005, four (4) members of the legal profession were also killed during the same period: Felidito Dacut (+March 2005), Teresita Vidamo (+February 2005), Atty. Ambrosio Matias and law student Leonard Matias (+8 May 2005).

At least seven members of the legal profession were reported killed in 2004 including three judges: human rights lawyer Juvy Magsino (+February 2004), Arbet Yongco (+October 2004), Victoria Mangapit Sturch (+April 2004), Atty. Edgar Calizo (+ November 2004); and Regional Trial Court judges Paterno Tiamson (+ February 2004), Judge Milnar Lammawin (+April 2004) and Judge Voltaire Rosales (+June 2004).

There were eleven (11) reported cases so far since January 2005, including the following cases:
Atty. Charles Juloya, human rights lawyer, was seriously wounded when he was shot by an assailant on 22 March 2005.

Atty. Armando Cabalida, of the Public Attorneys Office, was ambushed by armed men resulting in the death of his driver on 19 February 2005.

The attack against human rights lawyer, Atty. Pergentino Deri-on and the burning of his vehicle on 4 May 2005.
The suspected assassination attempt against UN Judge *ad Litem*, Romeo Capulong on 7 March 2005 and the other threats and harassment against him during the period.

The listing of human rights lawyers group Protestant Lawyers' League (PLL) and Free Legal Aid Group (FLAG) as influenced or controlled by '*enemies of the state'* in a military document of the Armed Forces of the Philippines titled '*Knowing the Enemy'*.

The harassment and threats against lawyers from lawyers groups such as the Public Interest Law Center and the Pro-People Law Network (PLN) involved in controversial land and labor disputes and human rights cases.

A total of nine (9) judges suffered violent deaths since 1999.
Based on the above incidents, IAPL considers the Philippines a deadly place for lawyers and judges.

These attacks against lawyers and judges, are attacks against the legal profession as it impacts on the independence and integrity of the practice of law. According to the Basic Principles on the Role of Lawyers, adopted by the Eight United Nations Congress on the Prevention of Crime and Treatment of Offenders (1990) the '*adequate protection of the human rights and fundamental freedoms to which all persons are entitled, x x x requires that all persons have effective access to legal services provided by an independent legal profession'*. Paragraph 18 of the same Principles declare that *'Lawyers shall not be identified with their clients or their client's causes as a result of the discharge of their functions*'. These attacks violate these international principles and threaten the practice of law and the administration of justice.
Paragraph 16 of the above Principles outline the duty of governments in ensuring the integrity and independence of the legal profession when it required that *'Governments shall ensure that lawyers (a) are able to perform all of their professional*

Page 21

*functions without intimidation, hindrance, harassment or improper nterference; (b) are able to travel and consult with their clients freely; (c) shall not suffer, or be threatened with, prosecution or administrative, economic and other sanctions for any action taken in accordance with recognized professional duties, standards and ethics'.* Unless the Philippine government take immediate steps to protect the safety of lawyers and judges and investigate and prosecute the perpetrators, the Philippines will remain together with Colombia, as one the most dangerous places for members of the legal profession. #

## RESOLUTION ON THE PHILIPPINES RE: KILLINGS, WORSENING HUMAN RIGHTS SITUATION, "TERRORIST LISTING" AND PEACE NEGOTIATIONS

*Passed by the IAPL Board Meeting*

**WHEREAS**, an escalation of human rights violations has arisen under the government of Gloria Macapagal-Arroyo in the Philippines victimizing mainly members of progressive people's organizations;

**WHEREAS**, over 4,300 cases of human rights violations affecting 235,000 individuals, 24,500 families and 240 communities have been documented that are attributable to the military, police, paramilitary, and death squads of the government of Gloria Macapagal-Arroyo;

**WHEREAS**, these human rights violations include the cold-blooded murders of at least 400 persons and the disappearance of 110 more among whom are peasants and farm workers demanding genuine land reform, workers fighting for a just wage and better working conditions, human rights activists, journalists, lawyers, religious leaders, members of progressive organizations and party-list groups considered by the Macapagal-Arroyo administration as "enemies of the state";

**WHEREAS**, six lawyers and one law student have been killed as of October 2005 while four lawyers and three judges were killed in 2004 many of whom are human rights and public interest lawyers;

**WHEREAS**, attacks on the legal profession has risen as evidenced by the killing of lawyers, blacklisting of progressive lawyers groups as influenced or controlled by "enemies of the state" and the harassments and threats on the lives of people's lawyers including a pioneer of the IAPL, UN Judge *ad litem* Romeo T. Capulong;

**WHEREAS**, the Philippine National Police (PNP), the Armed Forces of the Philippines (AFP) and various government officials including Gloria Macapagal-Arroyo have publicly vilified progressive people's organizations and party list groups as "communist fronts" to justify the violence against the said organizations and their members;

**WHEREAS**, elements of the PNP, AFP and their paramilitary groups and death squads have been implicated in these human rights violations but not a single one has really been brought to justice thereby further engendering a climate of impunity;

**WHEREAS,** the government of Gloria Macapagal-Arroyo has openly endorsed US President George W. Bush's "war on terror" and is pushing for the passage of an anti-terrorism law in the Philippine Congress which can be used to suppress legitimate dissent, target national liberation movements, and violate even further the basic civil and political rights of the people;

**WHEREAS**, the government of Gloria Macapagal-Arroyo is using what it calls "calibrated preemptive response" to openly violate the people's democratic right to peaceful assembly;

**WHEREAS**, the US government has supported the current Philippine regime as a close ally in the so-called "war on terror" and has intervened in internal Philippine affairs because of its geopolitical interests in the region;

**WHEREAS**, the US and the European Union have unjustly and maliciously listed the Communist Party of the Philippines, the New People's Army and Prof. Jose Maria Sison as "terrorists" without any due process and in violation of fundamental democratic principles;

**WHEREAS**, such "terrorist" listing has wrongly demonized a legitimate liberation movement and has contributed to the current impasse in the peace negotiations between the Government of the Republic of the Philippines (GRP) and the National Democratic Front of the Philippines (NDFP);

**WHEREAS**, the continuation of such negotiations is desirable because it has resulted in important documents such as the Comprehensive Agreement of Respect for Human Rights and International Humanitarian Law (CARHRIHL) and it is a forum for formulating solutions to the basic problems of the Filipino people;

**THEREFORE**, be it resolved, as it is hereby resolved that the IAPL will:

Bring to the attention of the government of Gloria Macapagal-Arroyo its strong condemnation of the rampant human rights violations in the Philippines;

Support efforts to bring the perpetrators of violations of human rights and international humanitarian law to justice;

Call on lawyers organizations to condemn this state terror and escalation of such violations in the Philippines, specifically the horrible killings of activists, progressives and other unarmed civilians;

Call on the international community to bring pressure on the government of Gloria Macapagal-Arroyo to immediately stop these violations being committed by its military, paramilitary and police forces;

Call on the US government to stop intervening in Philippine affairs;

Call on the US and EU to scrap its nonsensical "terrorist listing" that is used to demonize progressive personalities and legitimate liberation movements; and

Support the efforts to remove the obstacles to the resumption of the GRP-NDFP peace negotiations.

Adopted by the Board of Directors, 2 December 2005, Utrecht, The Netherlands.

# Report on the Fact Finding on the Murders of the 17 Maoist Communist Party (MCP) Members in Turkey

The Turkish state has a history of killing and executing progressives and democratic forces and those waging social and national liberation struggles in Turkey.

One of the most brutal executions in modern Turkish history happened between 17-18 June, 2005 in the district of Mercan, in the Tunceli area. Seventeen persons – cadres, activists and central committee members of the Maoist Communist Party (MCP) , including the General Secretary, were killed by Turkish armed forces using bombs and rockets.

Most of the victims were so mutilated their families and relatives could not recognize them.

A news blackout was imposed on the events in Mercan and the government and military refused to release any information on what really happened in Mercan. Thus, a fact-finding mission (FFM) to Turkey was organized by anti-imperialist and progressive persons in Europe.

The purpose of the mission was to gather information and find out what really happened in Mercan. The fact-finding mission was organized by the International League of Peoples' Struggle (ILPS), the Confederation of Workers from Turkey in Europe (ATIK) and the Confederation for Democratic Rights in Europe (ADHK).

The Fact Finding Mission stayed in Turkey from 4-8 September 2005, to gather information and interview families and relatives of the victims. The Mission was composed of lawyers Roland Meister and Rainer Ahus from Germany, Cem Cihan, from the Netherlands, Rio Mondelo, a journalist, and Hidir Cangoz, brother of one of the victims, Cafer Cangoz. Cem Cihan was especially interested in the investigations, as one of those killed, Kenan Cakici, was a Dutch citizen.

On the first day of the Fact Finding Mission, the delegation met with the families and their lawyers who explained the circumstances of the case. A film showed the state of the bodies after the autopsy and after the bodies had been cleaned. The film showed that the victims were murdered mostly through rockets and bombs. Those conducting ballistics examinations were having a difficult time in ascertaining the injuries because the bodies were so torn apart.

On the second day, the delegates met with different associations and organizations to inquire about the massacre and about the human rights situation in Turkey. The delegates met Suleyman Matur and Eyup Bas, representatives of Temel Haklar Federasyonu (Federation for Basic Rights). The representatives stated that they condemned the massacre of the 17 persons. They were aware that this was not the first, nor would it be the last brutal act of the state to silence the people that they considered "dangerous".

**Those conducting ballistics examinations were having a difficult time in ascertaining the injuries because the bodies were so torn apart.**

Matur and Bas, also raised the issue of extra-judicial killings, which have a long history in Turkey. An example of this was when television cameras showed the police in front of the Ministry of Justice executing Eyup Beyaz. The excuse was that he was a suicide bomber so they tried to handcuff him. As he tried to run away, they shot him twice. On the day of his funeral, activists of TAYD who attended Beyaz' funeral were attacked.

Extra-judicial killings have increased since 1990, especially in 1993-94 and 1996-97. Temel Haklar Federasyonu also mentioned that the state police called the father and uncle of Eyup Beyaz to meet with the Minister of Justice Cemil Cicek and apologize to the media for what happened to his son, thus making the Minister of Justice look like a hero.

The Fact Finding Mission also met with the Peoples Democratic Party (DEHAP). As they were meeting with DEHAP, information reached them about some persons who had been killed by the police in southeast Anatolia. Five persons, mostly young Kurdish persons were killed. The day before, workers from a nut factory were attacked by civilians. Four of them were badly injured and brought to the hospital where they were later kidnapped by the same group that attacked them. No one in the hospital did anything to stop the kidnapping and up to the present, nothing more has been heard from them. The workers are Kurdish.

Clashes between the police and the people continue especially in Diyarbakir, Siirt, Van and Hakkari. The representatives from DEHAP also briefed the delegation on the condition of Abdullah Ocalan, who continues to be detained in an isolated prison by the Turkish authorities.

The delegation later met with representatives from the Human Rights Association Istanbul (IHD). Once again they heard of the increasing number of extra-judicial killings, especially in southeast Anatolia and other regions. They discussed what could be done to stop these killings and bring these to the attention of the world, and render justice to the victims and their families.

The closing of Ozgur Politika in Germany was also discussed. The suspicion is that the closing was connected to the German election since there are two people Turkish people living in Germany. Many of them are already German citizens and the Schroeder government wanted their votes and tried to show how it was fighting "terrorism".

The Fact Finding Mission closed with a press conference. The Mission was asked what their future plans were. Proposals made by the different human rights organizations and the families and relatives of the victims were to immediately send fact finding missions to regions where clashes and/or massacres occur. It was also proposed that the lawyers and the victims' families work closely on legal procedures to bring justice to the victims and to get more international support. #

# Peoples' Tribunals are a part of class struggle...'

*An interview with Hakan Karakus on his participation in the International Solidarity Mission (ISM) and International Peoples' Tribunal (IPT) in the Philippines.*

**In the Philippines an International Solidarity Mission (ISM) and an International People's Tribunal (IPT) was held from the 10-18th August, 2005. What was the purpose of these activities and how were they organized?**

The International Association of People's Lawyers (IAPL), of which I am the president, supports activities such as these. That is, to investigate human rights violations (hrv) in different countries, and organize various international activities. We've had similar activities like these before such as the one in India. Our members in the Philippines proposed that such an activity take place in the Philippines. They explained that they wanted to organize an International People's Tribunal. About three to four months ago, they forwarded the program and the concept to us. We looked over the invitation and decided to participate. Dr. Şebnem Korur Fincancı and I participated as delegates from Turkey.

This is how the organizing of the Fact Finding mission started. One of the main aims was to investigate the human rights violations in the Philippines, especially, afer Gloria Macapagal –Arroyo became President. A tribunal would be held after the Fact Finding Mission. This would of course only be a symbolic Tribunal. The Fact Finding mission and the Tribunal would play important roles to gain national and international support for the struggle for justice for the human rights victims. Our organization knows that organizing and being active in such events is one of our tasks.

**Did you ever participate in a Tribunal like this before?**

No, I never was in a Tribunal like this before. But the IAPL as an organization has participated in a tribunal like this. This was the Korean Truth Commission which was held in New York in 2002. I could not participate in the Tribunal because I was not granted a US visa. The Filipino lawyer Edre Olalia and the Dutch lawyer, Dundar Gurses represented the IAPL.

Atty. Hakan Karakus flanked by colleagues Atty. P.A. Sebastian and Atty. Edre U. Olalia

That tribunal was successful. It drew world attention to the crimes committed by the United States against the Korean people. US imperialism was found guilty of the occupation and the war crimes it committed. The countries that joined the US, 16 countries including Turkey, were also found guilty.

**How were the International Solidarity Mission and People's Tribunal organized?**

The International Solidarity Mission was composed of participants from 18 countries with 85 delegates. From the Philippines more then 100 organizations from different areas participated. People from different professions like academics, doctors, lawyers etc participated. First we came together on the 10-12th August in Manila, Philippines. The secretariat that was formed for this mission divided the participants into different teams that would go to different areas. The areas chosen were places where the most violations of human rights are taking place. The teams were composed of 17-20 persons. We went to different areas and had three days to investigate.

During those three days we talked to victims of human rights violations, talked to witnesses, went to places where there were human rights violations or assassinations. We also talked to government authorities as well as army and police personnel. We tried to gather all the statements of witnesses and documented them. After this work, every team brought all the documents, evidences and and files to the tribunal. They were brought to the University of the Philippines the day before and were handed to the Tribunals' prosecutors.

**Before we go to talk about the tribunal would you please tell us more about the kind of work your team accomplished?**

Dr.Şebnem Korur Fincancı and I were the delegates from Turkey. Our team went to the island of Mindoro, in Luzon. The island where we went to is one of the most critical areas with a high rate of human rights violations. In that region, in relation to human rights violations, the name of a ferocious person is General Palparan, who used to head the military there. This person is known as the “Butcher of Mindoro”. During his time there, Mindoro had the highest rate of exectuions, torture, dissapearances, unknown murderes etc.

Before we went to Mindoro, we stopped by a town in Santa Clara, in Batangas province. This town has a long history of struggle. We listened to the peole as they shared their experiences and thoughts with us. Then we left for Mindoro, which we reached after a three and a half hour boat trip. We worked for two whole days. We saw that there was a high incidence of murders, dissapearances, extra judicial killings etc. As we investigated the unsolved murder cases, we could see that it was obvious that those murdered were killed by the state. We learned about this by talking to the families and relatives of the victims.

**What did you experience during your stay on the island?**

On the island we learned that abductions take place. For example, there was a lawyer who ran for the municipal elections. It seemed that he would win. Shortly before the elections he was killed. One of the killers was caught a short while after the incident, but his confession/statement was not taken or recorded at all.

Another example was the General Secretary of the Human Rights organization, Eden Marcellana, who was kidnapped together with one of her companions, Eddie Gumanoy, who was the head of the peasant organization there. A few hours after the abduction, their bodies were found dead, killed under torture. We had the chance to talk to two of Eden’s and Eddie’s companions when they were abducted. What they told us clearly showed that the perpetrators were the military.

Again another example, the leader of the trade-union was shot eight to nine times. Fortunately, he survived. By another incident, an activist was killed in his house right in front of his little son. The Manila government has done nothing about it.

The police in the area never record these cases. There are no authopsy reports, no official reports/minutes. All the evidences taken by the regional police are brought to the general headquarters where they remain. It is impossible to go through the evidence. We met with the district police who told us that there is nothing they can do. We met some municipal councilors of the island. Before that, they didn’t want to meet with organizations. With the pressure of an international delegation they agreed to meet us. We met with the municipal councilors and the highest authority on the island, the governor. These authorities told us things that we are used to hearing. They aren’t strange to us. They spoke like all authorities in semi-colonial countries. They said that they have a lot of respect for human rights, that they are against these killings. They claimed that these killings are done by the Communist Party of the Philippines (CPP) and New People’s Army (NPA). They kept on blaiming other groups for what happened. Of course no one believed what they were saying. They also said that those cases were investigated, but the number of human rights violations that they gave and the real number are very different. It was very clear to us that the human rights violations, killings etc. are linked to the state and that they are giving answers that have nothing to do with the cases. They kept trying to change the subject.

**The people’s economic and social conditions are very bad. What I mean is that the class contradiction in the Philippines is very intense.**

We were able to have an unexpected meeting, which no other team was able to have. We were able to meet with the army. We met with the 204th battalion which is well known in the Philippines. We met with the batallion that has the record of the most human rights violations. We met with the Colonel of that batallion and even though he was present, he didn’t speak. He didn’t say a word. Officer Jovily Carmen Cabading, a woman officer, was the one waiting for us. She purposely dressed in civilians clothes. She acted like a theater person the whole time. She talked like she was on a show. From time to time like she would preach or give a lecture on something. She introduced herself as the representative of the public relations department which has been formed by the army and the police. It was very clear that she was specially educated by the CIA. All she was trying to do was make propaganda. On the one hand she tried to show herself combative and on the other hand tried to send other messages. She used sentences that they teach you in pre-school. These were prepared by the army. For example she said: **“** too much democracy kills democracy**”**.

We also visited a prison. When a picture with a political prisoner was taken by a member of the team she said that the picture would be used for “left wing activities”. She made it look like something bad was done. She tried to prevent us from speaking, but did it in a polite manner. She was very eductaed in her profession and it was obvious that she had had special education. A problem with a camera occurred. They tried to video tape our team. Our team objected to this and didn’t want anyone to tape our conversations. A discussion occured and they had to step back. They were playing a role in front of us, making a show but their eyes looked different. Their eyes said something different.

**Aside from this meeting, did you hold any other discussions with the police? Did you undergo any psychological or physical suppression?**

There is something very important that I want to tell. This is also something that only our team experienced. Throughout our whole trip on the island, a group of civilian -fascist's followed us carrying placards which clearly had been prepared by the army. We could tell from the face of the officer that they approved these placards which read **"** get out of this island**".** They also wrote that we came to make problems on the island and in the Philippines in general. There were also placards saying that we had connections with the CPP/NPA (Communist Party of the Philippines/ New People's Army) and the NDF (National Democratic Front). They tried to threaten us on one side and scare us on the other. We asked the authorities that we met, **"**Is this your hospitality? If you are authorities why don't you do anything about this"? They claimed that they confiscated the placards that they saw, but that was not true. For days, the placards remained there. They also blocked our way. But our Filipino friends, the human rights activists did the same thing. They also blocked the road and stopped the cars, telling the people what the police were doing.

It must be added that the democraticç struggle is very advanced. Their offices are in the same building where the government administration is working, and they are able to protect their position. For this reason, the experience of their struggle, the image that they create with the masses is one of strength. So the masses didn't just look at us as an international delegation. The government was aware of the force standing there. Because of the force inside the mass movement, we were very comfortable and safe. We felt like they couldn't touch us when we were with the masses. This was not just because we were foreigners but also because of the strength of the mass movement and the continuing struggle have. This is a point that should be underlined. On one hand you have the human rights violations and on the other hand you have the strength that the mass movement has built.
They really have reached an important point and this should really be mentioned.

**What was the reaction of the people in the places where you went ? How do you see the socio-economic conditions of the people?**

The people's economic and social conditions are very bad. What I mean is that the class contradiciton in the Phlipipnes is very intense. The minimum wage is about 100 US dollars a month. We saw with our own eyes that the people in the Philippines are very poor. This was in almost all areas. Take Manila for example. It is the most advanced city in the Philippines. In some districts, it can compete with Paris and London. But as in all semi-colonial countries most of the population lives under the poverty line. In Metro Manila people live on the streets or in barracks. It's not as bad as in India but worse then Turkey. But in terms of degeneration its even more worst. We witnessed how they were selling 13-14 year old girls. We saw what the Filipinos told us.

More than half of the country's population can only eat twice a day. These people are not able to fish. Just think, there are almost 7 thousand islands but only a limited number of people have the permit to fish. Fishing is under the control of monopolies. Only certain people can fish. This is very important because even if they live on the coast they are not allowed to fish.

The influence of US imperialism and its hegemony can be seen everywhere. In many places they are present with their institutions and US flags. The US has great economic and military influence. Before the ISM happened an event was made against the US soldiers who are in the Philippines.

The attitude of the people towards us: It was not that they would treat us like strangers, misionaries etc. The people we met were human rights advocates, and as I mentioned before, were involved in the mass movement. The conditions of the masses, the understanding of years of struggle and being part of it has reached a certain stage. Struggle has educated the masses in many ways. Besause of this, they understood the importance of this activity. The way they handled the provocations of the government authorities, their hospitality and how they treated us made us feel welcome.

**Your team also visited a prison. Could you give your opinion on the conditions of political prisoners?**

On this matter, there is one interesting point. It was strange that they allowed the visitation to political prisoners. I mean they allowed us to bring a camera and a video camera. The person that we talked to was a political prisoner who was considered **"**dangerous" His name is Ka Mackling. We saw that he was kept together with criminal prisoners. Because the Manila government doesn't want to have a large number of political prisoners most of the political prisoners are charged with criminal cases. This person was in that situation. After this we were able to meet with the lawyer to talk about this. He also told us that the prison administration is building seperate prison cells for political prisoners. In the Philippines there are almost 300 political prisoners.

**Are they all charged with criminal cases?**

No not all of them are under the same conditions. But the biggest number are charged with criminal offenses. We were not able to recieve the full information that we wanted. But, we learned that there is a prison in Manila where there are only political prisoners.

**How did you conclude your work?**

The work there concluded with a press conference. The interest in the press conference was very low. The press was already very much intimidated by all the killings. The press is under the control of the state. One or two TV channels came. We told them what kind of work we had been doing so far, and told them about the tribunal. After the press conference, we returned to Batangas on the way to Manila. The people were waiting for us when we arrived in the small town of Sta. Clara. We planned to have a rally with them. We stayed overnight in Batangas. The next morning we returned to Manila. There we stayed to prepare for the tribunal. The tribunal was held on the 19th August.

**How was the tribunal held?**

The first known tribunal in the world is the Bertrand Russel tribunal which was held against US imperialism's war crimes in Vietnam. There have been similar tribunals since then. The results are symbolic? Or is it symbolic what states are creating or just war tribunals in words? This side should be discussed.

**With its policy of aggression after 9/11 the US supported many human rights violations in Southeast Asia and brought out all these anti-terror laws.**

First of all, the tribunal was well prepared and conducted itself from beginning to end under its principles and rules. The tribunal took place at the University of the Philippines, in Quezon City. It was held in a lecture hall for about 1500 people. Different representatives of institutions and delegations from all over the country came. The tribunal prosecuters were well known lawyers of the Philippines. There were nine prosecutors. There were three judges of which I was one. One was a law professor from Rutgers University (USA) and who was one of the former laywers of Nelson Mandela, Lennox Hinds. The other was a Nobel Peace award nominee from Malaysia, Irene Fernandez and myself from Turukey. The jury was composed of 12 people from different countries. Şebnem Korur Financı was one of them. The tribunal opened with a prosecutor reading the indictment. Then the teams and activists presented evidences, tapes, witnesses etc. Reports on the fact finding missions were also presented. After the teams presented these, the jury deliberated and then stated the verdict.

Because of the evidences on systematic human rights violations, the jury found the state and the Macapagal-Arroyo government guilty. The decision was applauded by the people. The tribunal upheld the rules of court, with evidences,witnesses etc.

**What were thne norm or laws that the tribunal used?**

We didn't create any new forms and laws, nor a new juridical system. We used the known international justice system, which is also used by the bourgeois courts. We didn't put it in the frame of a proletarian or people's court.

**Isn't this contradicitonary to the name of the tribunal? It was formed as a people's tribunal?**

It doesn't really contradict. Anyway today's juridical system is something that comes with class struggle and is something that the ruling class accepts. It's not something that was laid out by them. It came through class struggle. Actually, todays class struggle accepts much more progressive legal rules. But the ruling class don't accept this. So even if we use these rules they are found guilty. If we would come with other laws then they would even be more charged. Today there are much more progressive rules that class struggle brings. We say: **"**the rules that you have written are already enough to charge you".

**At the end of the tribunal US imperialism was found guilty of human rights violations in the Philippines. How did you relate US imperialism to these violations?**

Of course, in the verdict US imperialism is mentioned. US imperialism was found guilty in the verdict. The US is one of those countries that tries to stay behind the curtain. Acutally, it has come on stage today, because of its agression in this and in many cases. Nowadays, it is shown with its soldiers. This has been shown to us in recent years and the Philippines is one of the examples. It has international military influence not just through bases. The US launched direct encounters with Muslim and NPA guerillas. It also supported the Marcos and Estrada governments and today is giving the same support to Arroyo's government. For this reason, US imperialism was also declared guilty.

With its policy of aggression after 9/11 the US supported many human rights violations in Southeast Asia and brought out all these anti-terror laws. In the Human Rights report prepared by the US foreign ministry, the Philippines is not even mentioned. For example, according to the research of Journalists Without Borders the most dangerous and unsafe country for a journalist is the Philippens. I also want to mention that IAPL is going to starta campaign against the killing of lawyers in the Philippines. Many have been killed during the last two years. This situation has intensified. In this way, the activities in the Philippines will continue and we will be able to give broader international support to them.

**How would you assess the results of the tribunal?**

The tribunal's results were an open public activity. To be specific, it was also a propaganda activity. We are going to create a work basis to get national and international support for the struggle. The results of the tribunal will serve the purposes for some campaigns that will be launched. All the information, tapes, recordings and files have been documented. This information must be given to certain people and institutions. The work on this issue is going to continue. #

# IAPL: Moving Ahead in the Service of the People

The yearly meeting of the Board Members of the International Association of Peoples' Lawyers was held in Utrecht, the Netherlands last Dec 1 and 2,2005. During the meeting, the achievements and shortcomings of the Association during 2005 were discussed.

Country reports showed that the work of IAPL is developing especially well in Brazil and India. Chapters of IAPL are being built in several areas in these countries as the work of peoples' lawyers increases.

In the Philippines, different lawyers' organizations of peoples' lawyers in different parts of the country are preparing for a national lawyers' conference to be held in 2007. The worsening human rights situation under the present government has brought to the fore many lawyers who defend the rights of the people.

In Turkey, the work of peoples' lawyers are concentrated mostly on political prisoners, defending the rights of the Kurdish people and against the eviction of slum dwellers in certain cities. Through involvement in these cases, the number of peoples' lawyers have increased.

The different activities participated in by the IAPL during the year were also discussed.

**International Solidarity Mission and the International People's Tribunal**. A major activity in 2005 was participation in the International Solidarity Mission ( ISM) – a fact finding mission - followed by an International People's Tribunal in the Philippines. This was in May 2005. Boxes of evidence gathered during the ISM were presented to members of the Philippine Congress to be used in the impeachment proceedings against Gloria Macapagal Arroyo.

**Fact Finding Mission in Turkey**. Last September 2005, a Fact Finding Team from Germany, Turkey and the Netherlands went to Istanbul to investigate the killings of 17 political persons. During the three day mission, the delegates met with human rights associations, families, lawyers and democratic parties. The mission closed with a press conference attended by a large number of media.

**Participation in Gatherings of other Lawyers' Organizations**. IAPL representatives also participated in the Conference of the National Lawyers Guild in the United States as well as in the congress of the International Association of Democratic Lawyers, held in Paris in June 2005.

The Board Meeting ended with the decision to hold the third Congress of IAPL in the Philippines on October 13-16, 2006. #

# Resolution on Turkey

*Passed during the IAPL Board Meeting of 1-2 December 2005*

The mobilization of the Kurdish people who have not lost their dynamism, accelerated after the 2005 Newroz, even though an attempt was made to repress them with a chauvinistic campaign initiated by means of provocative acts. Lynching parties were organized through civilian fascist gangs, which had previously been pushed into action. In other words, an attempt was made to incite the people into action. All of the institutions of the state and of the established order, the army, government, press and TV being the main ones supported this campaign with all their power.

After 12- year old Ugur Kaymaz was murdered with 13 bullets, together with his father, in November 2004, similar extra-judicial killings have become more frequent in the Kurdish provinces. Extra-judicial killings, torture, repression, raids, internal exile and prohibitions have become more common. Counter-guerrilla actions, consisting of serial murders and massacres in certain areas, and consecutive bombings of houses and businesses, have accelerated.

Finally, the members of a counter-guerrilla team in Hakkari and environs had been caught red handed by the people, immediately after having carried out a bomb attack against a book store in Semdinli, owned by a patriot. Some of the members of these murderous teams, made up of non-commissioned officers were released. In the car and next to them, weapons, bombs,action plans, sketches and a death list were found. It was learned that this counter-guerrilla team had – in the last three months – initiated 18 bombings.

We in the IAPL support the struggle of the people of Turkey who condemned this incident and demanded to punish the counter guerrilla teams responsible for crimes against the people such as massacres, killings and bombings. #