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STATE CIVIL SOCIETY

RELATIONS IN POLICY-MAKING

MARLON A. WUI • MA. GLENDA S. LOPEZ, EDITORS

PHILIPPINE DEMOCRACY AGENDA

STATE-CIVIL SOCIETY

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PHILIPPINE DEMOCRACY AGENDA, VOLUME 2
STATE-CIVIL SOCIETY RELATIONS IN POLICY-MAKING

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SYNTHESIS

State-Civil Society Relations in Policy-Making

Introduction

The Philippine transition from authoritarian to democratic rule was attended by continuities and discontinuities that were often as intractable as the upheavals that preceded it. For one, the elite-dominated and inefficient state did not necessarily go away in the revolution's aftermath. For another, a new ethos that would overhaul the vestiges of the overthrown order was not inevitably born. This is why social and political movements, which, in the *moment* of revolution or transformation, were able to act as powerful catalysts or change-agents, often found themselves lost in the *process* of the ensuing transition. Armed with skills designed more to oppose or confront — than create or negotiate — policy and governance, these change-advocates, who were also potential participants in the *new* status quo, discovered themselves at a disadvantage vis-à-vis comebacking technocrats and politicians more adept in the so-called "rules of the game."

The constitutional and legal format of the post-Marcos state has been reformed. The new dispensation has opened up new avenues through which civil society can make an impact directly on how the state governs and what program of governance it will adopt. To protect initial democratic gains and move beyond the transition towards consolidation, it therefore becomes imperative to look more closely at the state and its undeniable role in social transformation and democratic consolidation. Civil society must continue to test the limits and potentials of the present Philippine state and ensure that the state, indeed, plays a positive role in achieving these twin goals.

For civil society to perform this guardian and advocate role, it must learn to permeate, access and engage the state. Not that civil society has not learned to do this in the past but that engagement of the state in the current democratic consolidation — fast becoming not only a choice but also a necessity — entails greater political adeptness and maturity in penetrating state policy-making institutions. This will require equipping civil society with the necessary understanding of state dynamics and processes and the tools for carrying out its multiple functions as critique, conscience, partner, or opponent, as the case may be, of the state in what effectively is a slow, evolutionary process of consolidating democracy.

In a national conference on *Philippine State-Civil Society Relations in Policy-Making* of some 50 delegates from non-government organizations (NGOs), people's organizations (POs), government and the academe, the areas where civil society has been engaging the state under the current constitutional/legal and policy environment were identified and assessed. In addition, the factors that affect state-civil society interaction in policy-making were identified. In this synthesis, we have grouped these factors into three general categories: (1) modalities of thinking of both the state and civil society; (2) extent of the state's and civil society's logistical resources, technical capabilities and organization; and (3) strategies employed by civil society in engaging the state.

These categories are not intended as airtight analytical compartments but serve as frames of reference for generating plausible hypotheses for assessing state-civil society relations in policy-making. A further caveat will be to state beforehand that in the process of integrating all the data gathered during the conference, it was necessary to abstract the trends and patterns rather than the fine points of distinction. These general categories, therefore, do not preclude or exclude the specificity of each and every aspect of state-civil society interaction. Finally, references to the state include the "national" and the "local," except in particular cases pointed out by conference participants where local institutions and processes are specifically involved.

Contextualizing State-Civil Relations in Policy-Making

State-civil society interaction in policy-making does not occur in a vacuum. In the Philippines, the current state and quality of the interaction can properly be understood and appreciated if viewed from the political and historical context of the post-Marcos transition. In setting this period as the locus of current state-civil society relations, no attempt to disregard politico-economic events and forces preceding the EDSA revolution is made or intended. In particular, the role of various opposition groups, including armed revolutionary forces, leading to the 1986 uprising cannot historically be discounted. Nor can the influence of transnational factors and power relations (e.g., market forces, the end of the Cold War and the emergence of globalization as the fulcrum of foreign and national policy) in the ensuing transition be denied. But for the purpose of laying the context of present state-civil society relations, the EDSA revolution becomes pivotal in that in 1986 came the ouster of a dictator who not only concentrated power in the executive but also effectively eliminated all opportunities for genuine participation in governance.

The EDSA revolution thus marked the beginning of a democratic transition in the country, a major feature of which is the opening of avenues for direct participation of civil society, notably through NGOs and POs, in various levels of government (BRILLANTES). It can be said that civil society participation in governance is one of the most significant hallmarks of the post-EDSA period. That a redefinition of governance is occurring in the Philippine context, BRILLANTES added, is evidenced by the increased civil society participation, and even leadership, in the delivery of basic services. Wary of how the past Constitution was used to legitimize authoritarian rule, framers of the 1987 Constitution filled its pages with "constitutionalized"

rights and values which civil society can invoke to protect or assert its sovereign will. (PAEZ).

With this democratic bias built into the constitutional framework, a momentum for tangible reforms in politico-administrative processes is felt, redefining policy-making venues and processes where the state and civil society intersect. The backdrop of this intersection, therefore, is a reformed legal/policy environment that offers greater possibilities for civil society intervention in policy-making but whose openness and hospitality to actual civil society participation remains to be tested.

The Upside: A Reformed Constitutional/Legal and Policy Milieu

Of immense significance to advancing the democratic agenda is the recognition by the conference participants of an increasing or expanding space for democratic and consultative exercises where state and civil society interaction, whether it be in the national or local level, can take place. This democratic framework is operationalized in venues and mechanisms provided for by the Constitution and the laws, which mandate consultative processes and even active participation of civil society in governance and policy-making. Through these the state, on the one hand, is able to initiate, and respond to popular pressure for, reforms. Civil society, on the other hand, is able to remain vigilant and to articulate its interests and agenda. There is thus an opportunity for a convergence, however conjunctural, of vision and action between the state and civil society.

We have the Philippine Constitution itself which has elevated, in so many provisions, the participation of NGOs and POs in decision-making processes of the state to the stature of a constitutional policy.

> The State shall encourage non-governmental, community-based, or sectoral organizations that promote the welfare of the nation (Art. II, Sec. 23, *1987 Constitution*).

> The State shall respect the role of independent people's organizations to enable the people to pursue and protect, within the democratic framework, their legitimate and collective interests and aspirations through peaceful and lawful means (*Id.*, Art. XIII, Sec. 15).

> The right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making shall not be abridged. The State shall, by law, facilitate the establishment of adequate consultation mechanisms (*Id.*, Art. XIII, Sec. 16).

This policy, in turn, finds concrete expressions in the Local Government Code of 1991 which not only provides for sectoral representation in the local *sanggunian* but also empowers local government units to jointly undertake projects with NGOs and POs as partners in development and the promotion of the welfare of the communities:

> Section 34. *Role of People's and Non-Government Organizations.* — Local government units shall promote the establishment and operation of people's and non-governmental organizations to become active partners in the pursuit of local autonomy.

> Section 35. *Linkages With People's and Non-Governmental Organizations.* — Local government units may enter into joint ventures and such other cooperative arrangements with people's and non-governmental organizations to engage in the delivery of certain basic services, capability-building and livelihood projects, and to develop local enterprises designed to improve productivity and income, diversify agriculture, spur rural industrialization, promote ecological balance, and enhance the economic and social well-being of the people.
>
> Section 36. *Assistance to People's and Non-Governmental Organizations.* — A local government unit may through its local chief executive and with the concurrence of the *sanggunian* concerned, provide assistance, financial or otherwise, to such people's and non-governmental organizations for economic, socially-oriented, environmental, or cultural projects to be implemented within its territorial jurisdiction.

An exemplary case operationalizing this mandate is the creation of a "People's Council" cited by ANGELES in her case study on Naga City where civil society representatives are able to perform the following: (1) vote and participate in the deliberation, conceptualization, implementation and evaluation of projects, activities and programs of the local government unit; (2) propose legislation and participate and vote at the committee level of the local *sanggunian*; and (3) act as the people's representatives in the exercise of their constitutional rights to information on matters of public concern and of access to official records and documents.

The Local Government Code also concretized the revolutionary process of recall where the electorate in its sovereign capacity directly removes erring local officials from office. For national officers who have breached the public trust, we have the constitutional provisions (Art. XI, Sec. 2, *1987 Constitution*) on impeachment for their removal from office. Moreover, for the prosecution of other officials, the Ombudsman and Sandiganbayan laws were enacted by Congress to ensure the accountability of government officials to the public.

In 1995, Congress passed Republic Act (RA) No. 7941 providing for proportional representation of party-list representatives in the law-making body, thereby heralding the promise of election of representatives of hitherto marginalized sectors and groups to the elite-dominated legislature. Earlier still, the Initiative and Referendum Act was enacted operationalizing the constitutionally enshrined right of citizens to directly propose, enact or approve, or reject any act or law or part thereof passed by Congress or any local legislative body (*Id.*, Art. VI, Sec. 32, *1987 Constitution*). To restore the credibility of elections, Congress likewise enacted several measures (RA Nos. 6646, 6679 and 7166), while the Commission on Elections issued a number of circulars to reform and protect the integrity of national and local electoral exercises.

In addition to these measures, there are built-in venues and mechanisms in the three branches of government where state-civil society interaction ought, at least in theory, to take place. Thus, civil society interacts with Congress in the enactment of laws; with the executive, in their implementation and enforcement, and the formulation of other programs and policies; and with the judiciary, for their interpretation and the redress of grievances.

Finally, summits (e.g., anti-poverty, crime, food security), dialogues and other consultative forums, as well as tripartite and multisectoral councils and bodies (e.g., local/regional development councils, inter-agency committees, wage boards and the like), where government officials and civil society actors can sit together and talk, are encouraged and regularly held. In effect, these constitute a formal policy of sorts or a condition precedent to state policy or program formulation. Local/regional development councils are breaking new ground, particularly in intensifying local government and civil society interaction in development planning and in strengthening local autonomy. Their creation finds its basis in Article X, Section 14 of the Constitution which provides,

> The President shall provide for regional development councils or other similar bodies composed of local government officials, regional heads of departments and other government offices, and representatives from non-governmental organizations within the regions for purposes of administrative decentralization to strengthen the autonomy of the units therein and to accelerate the economic and social growth and development of the units in the region.

Sectoral desks established by local government units also serve as centers for cooperation, coordination and joint actions between the latter and civil society groups, particularly on matters affecting the interests of the various sectors.

The Downside: Limitations and Problems Encountered

The presence and availability of these venues and mechanisms for interaction, however, leave much to be desired, for problems still persist regarding their utilization. The limitations and problems encountered by civil society groups can be categorized into those pertaining to (1) policy formulation and (2) policy implementation.

Policy Formulation and Other Structural Obstacles

State procedures and processes involving certain venues often hinder and obstruct interaction, instead of facilitating it. Biases against civil society intervention sometimes inhere in the policy-making structures and venues themselves, thereby producing, to borrow an oft-quoted phrase, a "chilling effect" on state-civil society interaction. The snail's pace and high price of judicial litigation, and the slow grind of the legislative mill, are familiar examples pointed out by the participants. Another would be the elitist composition of the legislature and the susceptibility of the legislative process to narrow and fleeting interests. One can recall, for instance, the political maneuvers of the landlord bloc in Congress to throw into limbo the agrarian reform measure proposed by the Congress for a People's Agrarian Reform (CPAR).

Likewise, the substance of laws are, in certain cases, thought of as outrightly working against the interests of certain sectors and groups in civil society. To illustrate, we have the decree criminalizing squatting (ELAGO), amendatory statutes and judicial decisions which allegedly further emasculate the Comprehensive Agrarian Reform Law (CARL), a fledgling treaty seeking to open up the economy to the vagaries of the world market (CAJIUAT and REGALADO), and not the least, penal

laws that discriminate on the basis of gender, such as provisions of the Revised Penal Code on adultery, concubinage and rape[2] (REYES).

Transparency, rationality and actual consultation in the policy-making process remain elusive, as centralization of decision-making, lack of information dissemination and non-optimization of existing venues and mechanisms continue to prevail. Participants particularly cited that transparency remains to be a missing ingredient in the formulation of our trade, fiscal and monetary policies, and those on migrant workers.

Lack of access to, or awareness of, these venues due to the state's failure to disseminate policy information and guidance for the sectors concerned has likewise been cited by the delegates as an irritant in state-civil society relations. In the case, for instance, of migrant workers' issues, NGOs are not even aware of the existence of the Overseas Workers Welfare Administration (OWWA) and Philippine Overseas Employment Administration (POEA) boards where they can be represented.

Piecemeal legislation and short-sighted and non-proactive approaches to policy formulation have not only given way to palliative and ephemeral solutions to problems requiring structural or radical reform. They have also wasted away the state's already limited resources. Migrant workers' issues and trade, fiscal and monetary policies have been particularly cited by the delegates as having no clear and definitive policy directions or goals. For instance, assessing the policy-making environment at the Department of Labor and Employment (DOLE), TIGNO wrote:

> [T]he policy-making and agenda setting at the DOLE is in a constant state of change. Within an 18-month period from the time of the Contemplacion-Maga case until today, there have been three department secretaries. The Department is seen mainly as adopting a wait-and-see attitude, dealing with situations as they arise and instituting remedial measures, rather than taking a sober, long-term perspective of the whole issue.

Policy Implementation

Exemplary legislation, policies, programs, rules and regulations often lose their luster for lack of sustained enforcement and implementation. A case in point involves the policies and programs adopted by the government for the protection of Overseas Filipino Workers (OFWs). Despite established OWWA policies on the protection of OFWs abroad, problems still persist, as evidenced by the report that about two dead OFWs arrive in our country everyday (VILLALBA).

Moreover, policy implementation suffers from the absence of synergy or the dearth of coordination among government agencies. Weak implementation and enforcement of our tax, trade, environmental and penal laws, for instance, have muted their intended beneficent results. Speaking of the country's criminal justice system, a case study writer (ANG SEE) lamented, "The five pillars of the criminal justice system — law enforcement, prosecution, courts, correction and community — suffer from poor credibility and poor efficiency. They work in isolation from, instead of in harmony with, each other." Also, this lack of coordination among government agencies continues to slow down the delivery of basic services like housing, health and infrastructure.

The lack of follow-through mechanisms also hampers policy implementation. An anti-crime NGO, for example, cited the failure of government to implement or institutionalize agreements reached in previous summits as the reason for its boycott of succeeding anti-crime summits (ANG SEE). Also, a case study writer (TIGNO) on the relations between private recruitment agencies and the POEA stated that government-response to suggestions of the private sector has been characterized as "the usual red tape where the actual response is so much delayed."

To recapitulate, while venues and mechanisms for state-civil society interaction are concededly available, their existence does not necessarily lead to an effective intervention by civil society in the state's policy-making process. At best, what the foregoing discussion has shown is an evident gap between policy and action, between theory and reality.

On the question of whether or not civil society can exploit these venues and mechanisms to penetrate state policy-making institutions and processes, various experiences of civil society groups show that this will depend, in one part, on the particular issue, advocacy, or sector involved and, in another, on the three factors to be explained below.

Summary of Formal and Informal Venues of Interaction

Civil society actors need a road map of labyrinthine state processes. This map consists of the formal and informal venues by which civil society can engage in and influence decision-making by the state. (See Matrix.)

Civil society's knowledge of the dynamics and processes involved in policy-making venues and the actual utilization of means of intervention serve as a gauge of their interaction with the state. Effectively penetrating and accessing state policy-making will depend, to a large extent, on a working knowledge not only of the venues for intervention but also the procedures involved. PAEZ's prescription regarding the legislative arena is *apropos*:

> [I]t takes more than conviction and the justness of one's cause to prevail in the [legislative] front. Moreover, although the Constitution contains ironclad provisions that guarantee civil society's rights to legislate, they were not accompanied by a manual of instructions.
>
> It takes a master strategist, an astute tactician with lots of political savvy, a public relations expert, a diplomat and a wily negotiator with the patience of Job — all rolled into one — to win the day in Congress. Civil society must understand how that complex labyrinth works and what motivates the players within it if it wants to succeed in pursuing its legislative agenda... and for its voice to be heard among a cacophony of other voices.

According to the conference participants, the means of intervention that have so far been successful in gaining entry for civil society into state policy-making are the following:

- Membership/participation in consultative or technical bodies and councils
- Participation in elections, recall, initiative and referendum
- Lobbying by petition-signing, signature campaign and submission of position papers
- Forums, dialogues and consultations with individual officials/candidates

Matrix of Formal and Informal Venues of Interaction

Congress	(1) Individual senators/representatives, including sectoral and party-list representatives; (2) Political coalitions and alignments of senators/representatives; (3) Committees; (4) Sessions and hearings; (5) Bicameral conference committee; (6) The President through the Certification and Veto powers; (7) The Legislative-Executive Development Advisory Council (LEDAC); (8) The Judiciary through Judicial Review
Executive Branch	(1) The Chief Executive;(2) The Cabinet/Cabinet Clusters; (3) Departments, bureaus and offices [including line agencies, technical working groups within agencies and NGO desks]; (4) Specialized administrative agencies and executive bodies; (5) The Commission on Appointments and the Concurrence power; (6) The Judiciary through Judicial Review; (7) The Congress through Impeachment, Legislative Investigations and Power of the Purse
The Judiciary	(1) The Supreme Court; (2) The Court of Appeals; (3) The Regional Trial Courts; (4) The Municipal Trial Courts and Circuit Trial Courts; (5) Other special courts; (6) The Judicial and Bar Council; (7) The President through the Appointment Power; (8) Congress through Impeachment
Local government units & autonomous regions	(1) Local officials [the Local Chief Executive, the *Sanggunian* and other local officers]; (2) Public hearings and consultations and other mandated activities; (3) Local special councils and bodies; (4) Congress through the Control Power; (5) The Executive through the Power of General Supervision
Informal venues	(1) Media; (2) Public forums, dialogues and symposia; (3) Multisectoral consultations, dialogues, summits and task forces; (4) Tripartite or multisectoral bodies and councils

- Bill drafting and sponsorship
- Filing, prosecution and monitoring of complaints and cases in redress of grievances before appropriate bodies
- Presidential certification of bills/directives
- Coordination and partnership with state agencies in particular projects/activities
- Rallies, strikes, demonstrations and other mass actions
- Networking with the state and other civil society actors
- Articulation through multimedia sources
- Endorsement of or support for elective and appointive officials

Civil society groups often simultaneously utilize several means of intervention in their advocacies. It is instructive to look at the case of SIBOL when it adopted a three-pronged intervention strategy — which involved advocacy in the legislative arena (and, to some extent, the executive), the media and the community — in its campaign for the passage of a new anti-rape law.

> [In the legislative front,] SIBOL drafted the proposed anti-rape bill and lobbied individual legislators and their chief of staff, and the chairpersons and members of the working committees (the Committee on Women and Family Relations and the Committee on the Revision of Laws in the House and the Senate).... SIBOL members also diligently followed up committee deliberations on the bill in both Houses, testified in committee hearings, provided committees with research-based information and analysis, and

> cultivated friendly relations with committee secretaries.... SIBOL also met with the leadership of both the House and the Senate, asking their support for the passage of the bill. Women's lobbying reached the executive, and the President included the enactment of the rape bill as one of the priority items in the Social Reform Agenda.
>
> SIBOL also took its advocacy to the media: print, radio and television.... [The rationale behind this is that] use of the media is the best way to reach as many people as possible over a short period of time. The media popularize the issue [and remain] an effective means to gain public support for proposed policy solutions.
>
> [For its community advocacy,] SIBOL mobilized support for the anti-rape bill through its member organizations. As a result, peasant, worker and urban poor women from different parts of the country endorsed the legislation. Progressive students from various schools and universities outside Metro Manila launched signature campaigns exhorting legislators particularly their elected representatives to vote for the enactment of the bill into law (Reyes).

Two other points must be stressed at this juncture.

Relative Unevenness in the Utilization of Venues and Means

First, there is relative unevenness in the utilization and effectiveness of these venues and means. Utilization and effectiveness will depend on the particularities, if not peculiarities, of the time frame, sector, issue, advocacy, branch of government, or level of the state (i.e., national-local) involved. This is true for both the policy-making venues and the means through which these are accessed by civil society.

To illustrate, participation in the electoral process as a means of intervention will appear to be less used during non-election years than during years when elections are held. If civil society groups are seeking redress of grievances through the instrumentality of the courts, this particular means may even prove to be inappropriate, as judges and Justices are not elected by the people but are appointed by the President from a list of nominees submitted by the Judicial and Bar Council.

In the advocacy for reforms requiring legislation, Congress becomes the primary battleground for civil society intervention. Therefore, the means associated with the legislative process like attendance in committee hearings, submission of position papers and other forms of lobbying, become the primary tools for engaging the state. For instance, CPAR and SIBOL effectively used this venue, together with the applicable means of intervention, in lobbying for the passage of an agrarian reform law and a new anti-rape measure, respectively.

In monitoring the implementation of existing laws and policies, the arena would have to be the executive branch and, so far as their interpretation is concerned, the judiciary. The workshop on agrarian reform, for instance, noted that after the passage of the CARL, civil society groups involved in the issue trained their lobbies more on the Department of Agrarian Reform and less on the legislature. Civil society groups also lobbied the executive branch to persuade the Presi-

dent to issue executive orders which were beneficial to them, as illustrated, for instance, by the experience of CPAR prior to the passage of the CARL (VILLANUEVA).

Civil society intervention in the judiciary is widely evident when groups involved in crime prevention (e.g., Citizens Action Against Crime, Crusade Against Violence) help families of victims of heinous crimes file, prosecute and monitor cases in courts.

Moreover, with the Local Government Code in place, civil society groups at the local level can now influence local government policy-making through "local" venues and processes as sectoral representation in local law-making bodies, membership in local/regional development councils and the like, instead of going through the circuitous route of national agencies and offices. Note should be taken, however, of the concern aired in several workshops that decision-making still tends to be concentrated in Manila.

Finally, advocacy at the local level with respect to "national" issues like crime, the proposed anti-terrorism bills, tax reform and trade and fiscal policies, need to be accompanied by a corresponding campaign at the national level in order to be effective. National campaigns, in turn, require support from the grassroots. This is where networking plays a crucial role as a particular tool for policy intervention.

In sum, the time element and the appropriateness factor should always be considered in accessing and utilizing particular venues and mechanisms for intervention.

Underutilization of Formal Venues and Means

Second, there is a general underutilization of existing formal venues and mechanisms which, in turn, has led to the increasing use of informal venues and means for intervention by civil society. The underutilization of formal venues, in fact, has somewhat been offset by the increasing use of informal venues and means. Writing on the executive branch, Brillantes attributed the underutilization, and therefore to a certain extent, the ineffectiveness of formal mechanisms to the "slow momentum of the formal processes (agreements made through formal venues usually take a long time to get implemented) and the lack of preparatory staff work from NGOs/POs in proposing policies or programs."

It must be emphasized though that formal structures for civil society intervention are not being cast aside or abandoned. But the informal process and frank and above-board consultations are sometimes more effective as a stepping stone to formalizing consensus points reached between the state and civil society. Thus, while the use of informal venues and processes serve to supplement or buttress intervention efforts in the formal channels, care should be taken that these do not undermine or negate formal structures and institutions. The delegates agreed that such formal mechanisms are needed and are actually critical to the ultimate objective of institutionalizing transparency, accountability, rationality and civil society involvement in governance (BRILLANTES).

Factors Affecting State-Civil Society Interaction

Perspectives, Paradigms and Frameworks

The negative aspects of the relationship between the state and civil society may be accounted for by the differing modalities of thinking that divide them. This clash of worldviews may be illustrated by dichotomies that come into play whenever the state and civil society interact with each other. To understand the state's and civil society's respective vantage points, we may, for instance, explore the former's culture of governance vis-à-vis the latter's culture of resistance. Another would be the state actors' perceived passion for politics and civil society's perceived passion for activism. Still, we can look at skirmishes between the state and civil society in terms of the former's penchant for stability and the latter, for change; the former's concern for retention or concentration of power and the latter, for acquisition or distribution of power; the state's concern for "nation" and civil society's focus on "communities"; between the needs of growth and those of development; or the demands of immediacy and those of sustainability.

To illustrate, in the GATT-Uruguay Round (GATT-UR) debate, the differences in opinion ranged from those who favored an open market economy and those who advocated the maintenance of some form of trade regulation. In the matter of oil price increases, there were differences between those who favored deregulation and those who were against it. In addition, some groups considered women's concerns as "soft issues" while others treated them as mainstream issues. With respect to the environment, the advocates of sustainability and rational use of natural resources were opposed to those who disregarded these issues in development planning. In terms of migrant workers' issues, some clamored for proactive, long-term policies while others were for the implementation of reactive policies.

Negative preconceptions and misunderstandings of the state and civil society's position born out of these divergent modalities still exist. For example, civil society actors perceive that the decision-making processes of the state lack transparency and that the government's "sincerity" or "motive" in its actions and initiatives is suspect. This perception or preconceived notion of the state gives rise to distrust and reluctance on the part of civil society to participate in state-initiated processes. Several delegates, for instance, expressed that a number civil society groups refuse to take part in these processes (e.g., committee hearings in Congress) because of the view that they will gain nothing from them and that their taking part will merely result in "rubber stamp participation."

In anticipating the lack of synergy, rationality and sustainability in state policies and procedures, civil society actors impress outright upon the state the stamp of disapproval, if not incompetence. For example, it was written in a case study that the general feeling among migrant workers NGOs toward government is that of "frustration." This attitude arises mainly from the lack of government personnel and financial resources to respond to migrant workers issues. As a result, there is very little that government can do about the pernicious problems encountered by migrant workers. For example, some government officials are reticent to assist OFWs who are "undocumented" and, worse, those charged with criminal offenses in the host country (VILLALBA). The general view, said VILLALBA, is that the government attitude towards NGOs and POs has been patronizing, viewing them simply as beneficiaries, clients, or recipients of government services.

In turn, the state rebukes civil society groups for their impatience and scant appreciation of governmental venues and processes. State actors likewise complain about the often confrontational stance and knee-jerk reaction of civil society to government actions and initiatives, and the unwillingness of some civil society actors to arrive at a consensus with the state. Villalba, for instance, wrote that government officials are particularly suspicious of some migrant workers NGOs which are known to express themselves in mass actions, because they believe these are politically-motivated and harmful to the government's credibility and functions.

The ambivalence on the part of civil society on how it should participate in state processes and its tentativeness in responding to government policy breakthroughs stems from a concern that it would potentially lose its identity or be coopted by the state. This fear of cooptation by, or legitimization of, the state is, in turn, brought about by a negative preconception of the state. But this ambivalence of civil society does not arise solely out of *a priori* assumptions about the state. On the contrary, it can also be explained by the actual experiences of civil society in dealing with the state. Civil society's cynical view arises from the state's corruption, inefficiency and lack of political will to institutionalize thoroughgoing reforms. Civil society's experience with the Marcos dictatorship only heightened this cynicism even more.

Indeed, the state is partly to be blamed for this preconceived mindset or notion. In addition to its being accused of inefficiency in the performance of its functions, the state has demonstrated an uneasiness about civil society's emergence as a counter-power or a threat to its hegemony. The state, according to the housing and basic services workshop in the conference, has historically resisted reforms, so that its sincerity in resolving urban poor problems has been suspect. The workshop on trade and fiscal policies cited the way the government has seemingly effectively sidetracked each and every effort of civil society to influence state policy-making. It pointed out that the unholy alliance of political and economic power, as shown by the tandem of the state and big business in the GATT debates, is the biggest hindrance to democratization (CAJIUAT and REGALADO). The same workshop, this time tackling the issue of tax reforms, echoed the same sentiments when it reported that the network of patronage and *quid pro quo* arrangements between business and individual politicians has effectively shackled the legislative process on taxes to the advantage and benefit of business lobbies (GUTIERREZ).

Finally, the lack of culture-sensitivity (e.g., gender, environment, ethnicity, etc.) or awareness on the part of policy-makers and their aversion to civil society participation in decision-making has made friendly, non-adversarial campaigns by civil society actors an almost futile means for articulating their interests and grievances before the state.

Adversarial methods of engagement, in turn, have stymied the efforts of otherwise "open-minded or neutral" policy-makers to reach out to civil society and include its views in the policy-making process. PAEZ, for example, cited the failure of civil society groups to look at legislative dynamics as part of the politics of consensus and negotiation. The impatience of civil society groups with the legislative process, PAEZ explained, inhibited state actors from constructively dealing with these groups.

In sum, differing modalities of thinking of the state and civil society account for the negative mindsets or preconceptions of one about the other. This does not mean, however, that the state and civil society will always have to be viewed as two disparate, distinct and contending blocs. As pointed out above, these modalities are not mutually exclusive but constitute a range of mindsets and perspectives; thus, overlaps or convergences of these perspectives occur. And when they do, in terms of a particular issue for instance, the dividing line between state and civil society actors blurs, however momentarily.

That individual state and civil society elements or actors hold different views and positions on issues, as shown by the experiences recounted by the conference participants, further strengthens the view that the state and civil society are not monolithic entities. They are not separate, homogenous blocs that never converge on particular policy issues in specific time frames. Illustrative of this potential convergence at the local level is the "Empowerment Ordinance of Naga City" that institutionalized an NGO-PO-GO partnership:

> Governance is best effected if its responsibilities are shared by the people. A system of partnership between the governor and the governed shall guarantee that sovereignty effectively resides in the people. (Sec. 2 (c), *Ordinance No.* 95-092, Naga City)
>
> The City Government of Naga hereby declares itself open to a partnership with duly accredited Naga-based people's organizations and non-government organizations in the conception, implementation and evaluation of all government activities and functions. (*Id.*, Sec. 3)

In Sorsogon, the Task Force *Banyuhay sa Dagat* served as the forum for local government-civil society convergence in the formulation and implementation of a coastal resource management plan (Dela Cruz and Lopez). In this forum, local people's organizations, the mayor, the municipal council, the Department of Environment and Natural Resources (DENR) regional office, barangay councils and church groups engaged, debated and agreed with each other on the enforcement and review of municipal ordinances pertaining to coastal management.

Logistical Resources, Technical Capabilities and Organization

The extent of logistical resources (including manpower), technical capabilities and organization also affect, to a large extent, state-civil society interaction in the policy-making process. The limited logistics and technical knowledge and expertise on particular issues constrain lobby and policy intervention efforts. In a case study (Cajiuat and Regalado) of state-civil society relations in trade, fiscal and monetary policy-making, in general, and the GATT-Uruguay Round debates, in particular, the writers have this to say about the debilitating effect of limited resources and technical expertise on lobbying vis-à-vis the state and other stakeholders:

> Civil society actors are handicapped by limited resources and capabilities in making and articulating their positions. This is further aggravated by the fact that policy issues and information do not reach them on time, if ever they do. On the other hand, the government supports those who articulate its position, particularly in logistical terms. Government sets up propaganda machineries, including national campaigns and advertisements.

> Unlike the government and business sector, civil society groups [lack the resources to ensure that technical expertise and preparation goes into the packaging of its position].

The lack of technical expertise on the part of civil society can also affect to a considerable extent their capability to access the existing venues and other state processes. Civil society's lack of knowledge of venues and their corresponding processes hampers its policy intervention efforts. To illustrate, due to unfamiliarity with the policy-making terrain, civil society actors were not able to use the appropriate means to access particular venues. They therefore ended up employing improper or inappropriate means of intervention. According to the participants, this led to ineffective campaigns and lobby efforts. Unfamiliarity with the venue involved also breeds a general feeling of indifference and apathy that preempts participation and involvement in policy-making. For example, in the deliberations on the revisions introduced in the CARL, only a few farmers' groups or NGOs kept watch over Congress. The reason was that they found the legislative process an unfamiliar terrain.

Sustainability of financial resources has also been a serious concern. In particular, the workshop on housing and basic services explained that the failure of local organizations/federations to devise and develop fund-raising projects caused serious financial difficulties which, in turn, slowed down day-to-day grassroots work. Financial instability also made reliance on donors and funding agencies a necessity. As a consequence, several workshops noted, NGO programs have become donor-driven and funding-oriented. This has led to cooptation by funding agencies and resource-rich politicians and to the proliferation of fly-by-night NGOs and POs. These developments meanwhile impede the development of a comprehensive agenda for policy advocacy.

The need for further developing civil society's ranks and networking with other groups is also an important factor in effecting a successful intervention campaign, particularly at the local level. One case study writer (ANGELES) noted in her assessment of the organizational skills of the Naga City Urban Poor Federation (NCUPF) that as its officers matured to a certain level, the administrative capabilities of local organizations at the barangay level were not developed accordingly. The identification and training of potential community leaders was neglected. Thus, the supposed pool of second-liners was actually non-existent.

Moreover, participants in the workshop on trade and fiscal policies conceded that organizing and networking at the local level was weak due to limited resources and the general apathy and unawareness of local communities of particular issues. That weakness, according to them, was further aggravated by ruinous competition, political differences and bickering, and disunity among the ranks of the local groups. These difficulties in organizing and establishing linkages with other groups have severely hampered campaigns and advocacies not only at the local, but the national, level as well.

Another consequence of logistical and organizational problems is the failure to follow through on policy gains and initiatives of the state. The workshop on housing and basic services noted the failure of some communities to maintain community self-help projects, facilities and infrastructure obtained from the local government.

Finally, the lack of organized communities, the failure to generate social constituencies on which specific policy advocacies may be founded, and the lack of awareness of available venues and mechanisms for policy intervention, were cited by several workshops as the culprits behind ineffective lobbies and campaigns.

It should be noted, however, that, to a certain extent, civil society groups have been able to effectively address the above-mentioned problems. For instance, the experiences of SIBOL and CPAR show that their effective networking with various local organizations resulted in the success of their campaign to mobilize a substantial constituency behind their respective proposed bills. Also, the technical expertise of their member-organizations and individual supporters significantly contributed to the success of their intervention in the legislative arena.

On the part of the state, the lack of technical knowledge and capabilities on particular policy issues hampers not only the formulation of proactive and long-term solutions to pressing problems but also the effective implementation of existing laws and policies. This factor has been cited as an impediment to the efficiency of the state by the workshops on the environment (prosecution of illegal loggers), migrant workers (prosecution of illegal recruiters and providing for the needs of migrant workers abroad, e.g., legal assistance, processing of travel documents, work contract authentication, etc.), trade and fiscal policies (formulation of a comprehensive policy on safety nets to caution the impact of GATT on some sectors), electoral process (acting on electoral complaints), and crime and human rights. Illustrative of this situation is the assessment made by a case study writer (Ang See):

> The law enforcers are hampered by lack of funds, equipment and training in intelligence work to solve crimes. While criminals use cell phones and sophisticated radio transceivers, our police precincts sometimes do not even have telephones. While the kidnappers' get-away cars are Pajeros and Nissan Patrols, our operatives use their own 1980s Toyotas and Lancers for pursuit. Worse is that often, when they succeed in arresting criminals, conviction cannot be assured, especially if the criminals are influential and the investigation conducted is below par, either by design or simply because our overworked and underpaid fiscals are too poorly trained and undermotivated to do their jobs well.

In another case, Villalba's appraisal of the Department of Foreign Affairs' lack of diplomatic force abroad is equally depressing:

> A staff person of the DFA who handles the affairs of migrant workers overseas is reported to have made the statement that the DFA workforce of 250 is unable to handle the protection of four million Filipino migrant workers overseas. If 250 represents the total diplomatic force of government overseas, this would mean that the ratio of DFA personnel per country where a Filipino migrant worker is located is 1.8 personnel per country. This means that there are less than two government representatives in each of the 137 countries where OFWs are located. Put another way, there are 16,000 Filipinos to be taken care of by each diplomatic representative overseas.

Lack of funding and the inefficient use of limited logistical resources remain as problems in the implementation of state policies and programs. Others are the inadequacy of monitoring capabilities and the lack of follow-through mechanisms

on policy initiatives — reflections perhaps of the negative attribute of *ningascogon*. State venues and processes also continue to be unutilized or underutilized due to the lack of an information campaign to make them more accessible.

Lastly, owing to the state's limited capabilities and often-compromised position on policy issues, the mobilization of a political or social base to support and push for critical yet unpopular reforms becomes difficult. In the case of tax reform, for example, a case study writer (GUTIERREZ) noted the state's apparent failure to build a massive, active and informed constituency to rally behind the comprehensive tax reform package. The result was that the strong business lobbies against the proposed tax measures prevailed.

Strategies of Engagement

The third factor through which state-civil society relations in policy-making may be understood and assessed is the nature and quality of engagement strategies employed by civil society vis-à-vis the state. The participants are of the view that while the logistics and resources of civil society groups are limited in quantity, they are able to more than make up for this by using qualitatively effective means of intervention in articulating their positions before formal and informal policy-making venues. In a case study of the anti-terrorism bills, the writer attributed the success of the opposition to the bills to the vigilance and visibility of civil society groups, including the strong networking forged among the church, religious and professional groups, and cause-oriented organizations (DIOKNO). An urban poor federation in the workshop on housing attributed the passage of pro-poor ordinances and policies to the election of progressive local officials, the cultivation of an open, dialogical and cooperative relationship between the local government and its constituents and urban poor groups, and the active involvement of the local community (ANGELES).

The two case studies on women's issues boast of successful campaigns for the passage of a new anti-rape law and the implementation of the family planning program at the local level. One cited the systematic way by which women's groups conducted their advocacy efforts in the legislature, the media and the community through consciousness-raising, community organizing and empowerment programs for women (REYES). The other noted the positive impact made by involving men as family planning trainers after they went through gender-sensitivity workshops and seminars (PASION).

In another case study, the success of a community-based coastal resource management program hinged on the partnership between civil society and the local government. The mediation of the mayor and the members of the *sanggunian* made possible a series of dialogues between NGOs and *baling* operators (those who use fine mesh nets to catch juvenile fishes) that persuaded the latter to use more appropriate fishing methods (DELA CRUZ and LOPEZ).

The picture will not be complete though without citing the downside of civil society's engagement of the state. First, because of minuscule or fractious lobby efforts, civil society did not make a dent on important issues like tax reform and trade and fiscal policies. In the case of tax reform, progressive groups were underrepresented vis-á-vis the business groups in the legislative forum. Their absence or insignificant participation in the debates were further aggravated by the lackluster involvement of the sectoral representatives in the discussions on the

tax reform measures (GUTIERREZ). The same can be said of the campaign of civil society groups against the GATT-Uruguay Round agreements, particularly at the local level. The division among the ranks of civil society on the issue was a serious constraint to the formation of an effective lobby against the agreements:

> While actors of civil society shared in principle many of the issues raised, they displayed differences in organizational and political projection. It came to a point [where] three major coalitions held a mass action in front of the Senate simultaneously, and speakers of each group were attacking each other. The issues became muddled up in this theater of war. Media highlighted the verbal exchanges rather than the issues.

Additional constraints to engaging the state are the general underutilization of existing formal venues for intervention and corollarily, the reliance on confrontational methods and informal channels which usually lack predictability, accountability and transparency. For example, the workshop on agrarian reform mentioned that a number of farmer groups did not intervene in some agencies involved in the implementation of agrarian reform (e.g., Department of Public Works and Highways), because they were not aware of the procedures involved in these agencies. Writing on state-civil society relations in policy-making in the legislative arena, PAEZ cited the lack of understanding of the processes and dynamics involved in the legislative terrain as one of the factors that accounted for the underutilization of Congress as a venue for intervention.

A third factor is the lack of coordination and networking among civil society actors in their advocacies. This lack of coordination is partly brought about by the fact that civil society is not a monolithic entity but consists of actors with diverse mindsets and interests. For instance, after rejecting the CARL, members of CPAR had differing views on how to implement their alternative agrarian reform program or PARCODE. On the one hand, the militant members insisted that it was hopeless to intervene in the legislative arena. Instead, they strongly supported grassroots initiatives like land occupation. On the other hand, the more moderate members still wanted to bring their campaign to Congress as they were wary of engaging government in a direct and confrontational manner (VILLANUEVA).

Two gray areas emerged from the discussion of strategies for intervention. One was the adoption of the strategy of business lobbies and the other was the employment of personalistic approaches at the local level. In the case studies on trade and fiscal policies, examples of how business lobbies were allegedly conducted (e.g., "wining and dining" officials and key actors, pirating key congressional staffers through the offer of lavish employment packages) showed how formal venues and otherwise rational policy-making succumb or become susceptible to backroom deals (GUTIERREZ). "Will civil society be tempted or compelled to resort to such strategies?" was the question that was often raised. The second gray area discussed was the long-term impact of cultivating "warm" relations with the local chief executive and other local officials. Instead of bringing about meaningful grassroots empowerment, will this not only reinforce the patronage and personalistic politics that are so entrenched in local governance?

In conclusion, conference participants agreed that the nature and effectiveness of strategies of engagement differ according to the level of state (national-local) and the issue ("national"-"local") involved. Engagement of local officials, for instance, has tended to be more direct and personal than that of national officials,

perhaps because local structures and processes are perceived to be more "reachable" and intelligible than national institutions and procedures. The same is true for "local" vis-á-vis "national" issues. Mobilization for national issues (e.g., trade, fiscal and monetary policies) at the grassroots level has been particularly difficult because for local communities, the reasons for getting involved in these issues are not so compelling (CAJIUAT and REGALADO; GUTIERREZ).

Action Agenda

Given the existing constitutional/legal and policy milieu and the three factors explained above as frames of reference, an action agenda containing recommendations on how to address the problems and issues that have been identified can now be drawn up.

In drafting an action agenda for strengthening civil society intervention in state policy-making, the task is not so much to define the policy issues that should be addressed to consolidate Philippine democracy. Various documents — the products of consultations and coalition-building within and between state and non-government groups — have been written, elaborating on a range of such policy options. Rather, the task is to build or harness the institutions, processes and political culture that would best lead to a harmonious, plural and democratic order, exploring contending policy options and arriving at the best policies. To do so an action agenda for Philippine democracy must inevitably entail commitments on the part of both the state and civil society, inasmuch as state-civil society interaction, as the foregoing has shown, is both dialogical and dialectical, a dynamic that involves both partnership and tension.

The state should make formal and institutional venues and processes more accessible and receptive to civil society.

The state can conduct information drives or campaigns to address the identified problem of lack of awareness of the venues as a constraint on lobby efforts. Government can also conduct training workshops or seminars on how civil society groups can obtain access to these venues.

The state should also implement confidence-building measures to encourage the participation of civil society in government processes. These measures should include the institutionalization of transparency, accountability and rationality in policy-making venues and processes; the strict enforcement of laws against their violators; the establishment of follow-through mechanisms to effectively implement agreements reached during consultations; better delivery of services; and the extension of more support to NGO initiatives.

Moreover, government should appoint more competent officials to sensitive government posts because the experiences of various civil society groups show that they are more willing to work with government if they perceive they are dealing with competent officials. In addition, stricter penalties should be meted out to erring government officials.

The state and civil society should continue addressing weak areas regarding their logistical resources, technical capabilities and organization.

On the part of civil society, coalition-building among their ranks is necessary in order to: (1) enable them to map out their territory and avoid wasteful duplication and overlapping in their functions, thereby eliminating unnecessary competition (BRILLANTES); (2) enable small NGOs and POs to strengthen their capabilities and network; (3) help civil society groups put up mechanisms for policing and regulating their ranks; and (4) pool human and logistical resources.

Civil society should further undertake capacity-building in areas that need strengthening. These include better appreciation of government rules and procedures, improvement of negotiation skills, and effective advocacy by tapping people who have expertise in lobbying government. Civil society groups familiar with the government terrain can also conduct their own training workshops and seminars on government venues and processes and share their experiences. To increase their credibility and competence, civil society should conduct thorough policy researches on issues they deal with. Moreover, civil society groups should find new ways to generate funds to sustain their projects. This will free them from constraints imposed by funding agencies, thereby giving them greater leverage on how to manage their projects.

On the part of the state, constant dialogue among government agencies will help avoid conflicts in their policies and achieve greater coordination in their implementation. Logistical resources of the state can be made more viable by implementing sound policies as to how it should generate, manage and allocate its resources. Accountability is also imperative. The state should also strive to be technically competent in its area of work. Government officials should be sensitized to such issues as women's concerns and those of other sectors. Finally, policymakers should be educated about the indigenous knowledge and practices of indigenous cultural communities to better attune government policies (e.g., on environment and electoral reforms) to the belief systems of these groups. All these entail institution-building on the part of the state toward strengthening formal structures and processes.

Civil society should continue harnessing its strategies of engagement, cognizant of the factors that come into such decisions as when to dialogue and when to confront. The utilization of both formal and informal venues and mechanisms should be optimized.

One way of achieving this is for civil society to have a better appreciation of the processes involved in the bureaucracy so as to understand the way government (not necessarily a monolith) thinks and acts. Not all cooperation with the government is cooptation. Criticism of government need not always be couched in an adversarial fashion, though sometimes such methods are effective. Civil society should constantly be in search of, and in contact with, proactive and concerned bureaucrats who could be potential allies and even advocates of civil society within the bureaucracy.

The following measures may be undertaken to advance this agenda: sustained and maximized use of existing mechanisms; strengthening of mass-based support; support for government officials and bureaucrats who are sympathetic to the cause of civil society; working for a responsible media; networking with

churches; and extending lobbying efforts before international forums. Civil society actors should also consider, when appropriate, being appointed or elected to government positions.

Moreover, civil society should expand the means of engaging the state to include more creative measures that advance the causes civil society advocates and to attract more members of society to understand and support these causes.

The executive and judicial venues, on the one hand, should be demystified (i.e., entry points for intervention should be identified, comprehended and tested). Lobby efforts in the legislative arena, on the other hand, should be further intensified. The use of local venues and processes must be optimized by civil society. Toward this end, there should be continued advocacy for the regular convening of local/regional development councils and other tripartite or multisectoral bodies at the local level.

Although a necessary tool for engaging the state, this action agenda, in itself, is by no means sufficient to guarantee effective intervention. As pointed out by participants from civil society themselves, they need to comprehend further the intricacies of state policy-making in order to optimize their influence and participation. Factors that limit or obstruct the intervention process must be addressed, and those that facilitate or encourage it, further harnessed. The challenge, therefore, is to raise the level of political adeptness of presently marginalized groups in civil society. This requires developing the capabilities of civil society to effectively adjust to and overcome the idiosyncrasies of the policy-making process, and penetrate the state's policy-making structures. On this task will largely depend the advancement of a democratic policy agenda and the fortification and expansion of formal democratic processes.

ENDNOTES

1 ELAGO's paper was written prior to the repeal of this decree by Republic Act No. 8368. Although repealed recently, the decree's erstwhile existence discriminated against the urban poor and penalized them for their poverty.

2 The rape provisions of the Revised Penal Code had recently been amended by Republic Act No. 8353. Rape is now a crime against persons and not merely against chastity, an amendment for which women's groups had successfully lobbied. REYES' paper was written prior to the passage of the amendatory law.

ALEX B. BRILLANTES, JR.

SYNOPTIC PAPER

State-Civil Society Relations in Policy-Making
Civil Society and the Executive

Introduction

The role of civil society in governance has gained recognition in the past decade. In the Philippines, the interplay between government and civil society can be properly understood and appreciated only if placed in political and historical context. The year 1986 saw the ouster of a dictator who had been entrenched in power for close to two decades. Ferdinand E. Marcos not only consolidated power in the presidency, he also effectively eliminated all opportunities for genuine participation in governance. His fall marked the beginning of the democratic transition in the Philippines,[1] of which a major feature is the opening of avenues for direct participation in governance of civil society, particularly of non-government and people's organizations. In fact, a fundamental principle enshrined in the 1987 Philippine Constitution provides:

> [T]he state shall encourage non-governmental organizations, community based or sectoral organizations that promote the welfare of the nation. (Article II, Section 23)

The Constitution likewise devotes an entire article to the roles and rights of people's organizations:

> Section 15. The state shall respect the role of independent people's organizations to enable the people to pursue and protect, within the democratic framework, their legitimate and collective interests and aspirations through peaceful and lawful means.
>
> Section 16. The right of the people and their organizations to effective and reasonable participation at all levels or social, political and economic decision-making shall not be abridged. The state shall, by law, facilitate the establishment of adequate consultation mechanisms.

Without doubt, the Constitution defines citizen participation in governance as a major state policy. But the law in itself is not enough. Equally important are the openness and hospitality of the politico-administrative environment to civil society participation in policy-making. This paper explores this theme and examines how civil society has influenced the making of policy at the level of the executive and the Cabinet.

This paper addresses the following concerns:

- What areas of intervention are formally and informally available to civil society actors in the executive branch of government?
- Which of these areas have been utilized / under-utilized by business, the churches, the media, academic institutions, NGOs, POs, and other actors? Why or what factors would account for such utilization or under-utilization?
- What have been the strengths and weaknesses of these actors in the process of intervention? What factors account for these strengths and weaknesses?
- How can civil society maximize existing venues of intervention? What other venues need or can be developed?

For purposes of gathering data for this paper, interviews were conducted among leaders of civil society groups and the government, both at the national and local levels. A survey was likewise conducted among local leaders from both local governments and civil society.

Governance and Civil Society

In this paper, governance is operationalized mainly in terms of the delivery of basic services to the people. It must be noted, however, that the notion of governance may be defined in various ways. For instance, a 1992 World Bank report chose to define governance broadly as "the manner in which power is exercised in the management of the country's economic and social resources for development."[2] It added:

> Good governance is epitomized by predictable, open, and enlightened policy-making (that is, transparent processes); a bureaucracy imbued with a professional ethos; an executive arm of government accountable for its actions; and a strong civil society participating in public affairs; and all behaving under the rule of law.[3]

The World Bank's work on governance has been classified under four major sub-headings: (1) public sector management; (2) accountability; (3) legal framework for development; and (4) transparency and information.

> Similarly, a report prepared for the Asian Development Bank emphasized the relationship between government and citizens by defining governance as *"the capacity of the institutional environment in which citizens interact with each other and with government agencies.*[4] *It added that "good governance is required to ensure that governments actually deliver promises to their citizens."*

One dimension of governance therefore pertains to the management of the delivery of basic services to the public. The other dimension is in the area of transparency, answerability and accountability. This paper narrows the definition of "governance" in terms of the delivery of services. Traditionally, this has been left mostly to the formal structures and processes of government. However, governments have been unable to cope with the rapidly increasing demand for basic services due to, among other things, the lack of both human and financial resources, cumbersome bureaucratic systems and procedures including red tape,

and graft and corruption. Thus, critics say that governments have "successfully managed to fail" in governance. Such a situation has led to the involvement of non-government institutions, the private sector, and civil society in general, in delivering services. Such involvement has meant that these groups have themselves become participants in governance at both the national and local levels.

Influencing the Executive and Policy-Making: *The Formal and Informal Channels*

Civil society's influence on the executive branch of government, including the policy making process, can be exerted either through formal or informal mechanisms.

There are formal institutional mechanisms for direct influence at the policy level. The most common of these is participation in national councils or interagency, cross-sectoral committees, Cabinet clusters, etc., responsible for the formulation of policies addressing broad national concerns. For instance, the involvement of civil society groups was a key feature in the formulation of the Social Reform Agenda, the Peace Agenda, and Philippine Agenda 21 which sets the national agenda for "sustainable development." The Legislative-Executive Development Advisory Council (LEDAC) also gets inputs from civil society. All of these have given citizens' groups direct access to members of Cabinet and other senior officials of the executive branch and allowed them to have some influence on the making of policies and programs.

At the local government level, civil society groups have been allotted seats in special bodies like the local development councils that formulate development plans for the locality as well as more focused bodies like the local health board, local school board, the peace and order council, etc. Theoretically, formal membership in these bodies allows organizations to influence policy-making and agenda-setting at the local level.

Civil society groups can also play a key role in ensuring government accountability. This has become more feasible after the passing of the Local Government Code of 1991, which provided for the devolution of power, local autonomy and civil society participation in local governance. In fact, NGOs were active in the formulation of the Code itself, when they formed the National Coordinating Council for Local Governance in order to provide inputs on how the Code should be drawn up. As a result, NGOs were allowed to sit as observers in the oversight committee monitoring the Code's implementation. This was no mean feat given the Philippine politico-administrative culture that is marked by layers of bureaucracy and conscious of legal impediments to the participation of outsiders in official bodies. The Code also enshrined the concept of the accountability of local officials by providing for the recall of elected officials and citizens' initiative.

For instance, in Legaspi City, members of the local Catholic Church's Social Action Center spearheaded the *Ulat sa Bayan* project to monitor whether local officials have fulfilled their election promises. They conduct public forums every 100 days where local officials are asked to discuss the status of their promises. The discussions are aired by local radio stations and published in the local newspapers. The forums have encouraged constituents to be actively involved in moni-

toring the performance of the local officials, and have also made local officials more conscious of their role and responsibilities.

To provide additional venues through which civil society could have direct access to government, some national departments have set up offices to liaison with citizen's groups. Some have set up "NGO desks" in an effort to institutionalize the involvement of these groups at the policy, program or even project level. Among the national departments that have set up such desks are the departments of agrarian reform, environment and natural resources, agriculture, health, interior and local governments, social welfare, and justice.

In the legislature, civil society participation is institutionalized in the appointment of sectoral representatives in Congress and in local law-making bodies. Sectors which are represented consist mainly of the marginalized — the urban poor, women, peasants, indigenous cultural communities, etc. The goal is to empower these sectors by giving them access to law-making bodies so they can influence the formulation of laws and policies.

The emphasis on consultation with civil society, including non-government organizations, social sectors and people's organizations, is a key feature of the Ramos administration. Extensive consultations with government and non-government groups, down to the lowest possible level were done in the preparation of Agenda 21, the Social Reform Agenda and the Peace Agenda. These culminated in national summits where various sectors participated and major pronouncements were made by the President.

The Ramos administration convened these national summits in order to reach a consensus on key issues among a broad cross-section of society. Other summits called were the Peace and Order Summit and the Anti-Poverty Summit.

Formal structures, processes and institutions, however, have not always encouraged, but have also hindered, meaningful participation. After all, citizen's groups could go through the motions of participation — such as signing a "social compact" or "memorandum of understanding" with government — without reaping any tangible results. The more important questions are: even if civil society has influenced the formulation of critical policies, will these be implemented? Will the active and meaningful participation of civil society be sustained? What will be civil society's role in implementation? monitoring? evaluation? These are the fundamental issues that should be addressed in determining the extent of civil society's influence in setting policy?

Based on the results of the survey and interviews with key informants, it would appear that the formal mechanisms for civil society participation in policy-making in the executive branch have been under-utilized. One key respondent attributed this to the frustration of citizen's groups with the slow momentum of formal processes that result in agreements that take a long time before they are implemented. Partly, the respondent said, the fault also lies with NGOs and POs who often do not do the preparatory staff work needed to propose policies or programs to government.

The very short deadlines provided by the government for the consultation process also discourage the use of formal channels. There were also those who said that the formal mechanisms exist only as formalities and are being used only to comply with the rules set from above. In addition, the incessant red tape and

cumbersome procedures that characterize government institutions and processes render these formal channels ineffective.

Thus, most of the survey respondents felt that informal channels are more effective in influencing policy at the executive and Cabinet level.

Even while this is so, the respondents appreciated the existence of formal structures for civil society intervention. They say that such formal mechanisms are needed and are critical to the ultimate objective of institutionalizing civil society involvement in governance. The problem, however, is that formal processes are slow. Given the nature of many of the problems that beset Philippine society, swiftness of implementation has rightly or wrongly become the gauge for measuring the success of programs and projects. Thus, the phrase "fast tracking" of implementation has become a part of the day to day vocabulary of national policy-makers and the implementers in the bureaucracy.

The most cited informal channel for influencing the executive and the Cabinet is the informal dialogue. Being with government officials in the same television or radio talk show panel, in a kapihan, or in inter-agency meetings provide regular opportunities for dialogue. But sometimes, the most important exchanges take place not during the "on the air" discussions and formal meetings. Instead, the informal dialogues and exchanges of information which take place before and after such formal occasions provide opportunities to influence the thinking of national policy-makers.

The dialogue is made easier by the fact that some of those in the executive branch have themselves come from the ranks of civil society. The "credibility of our organization with these officials and our large constituency... makes it attractive for government officials as a dialogue partner," according to Danilo Songco of the Coalition of Development NGOs (CODE-NGO). Then, there are of course the informal ties that play a key role in influencing the executive. Being a relative and friend of the government official, or having stood together as sponsors in the same baptism or wedding still carry weight.

Additionally, informal channels are helpful if only because they are more relaxed and they allow an official to be "spared from making commitments, including outright fund commitments, publicly," said Aurora Tolentino of the Philippine Business for Social Progress (PBSP).

Whether through formal or informal channels, it is important for civil society to be involved in formulating responsive public policies. Such involvement, however, has to be active and meaningful. Otherwise, citizens' groups will either remain mired in the formalities or become suspicious that the processes provided for their participation are intended merely as mechanisms to legitimize the government's rule.

Strengths and Weaknesses of Civil Society

To optimize civil society's influence, it is important to understand its strengths and weakness.

Among the major strengths of civil society are the following: a large constituency, especially that of NGO national coalitions and formations, conveniently en-

ables the government to reach a larger number of NGOs in just one dialogue. This also provides the executive a window to the perspective of the constituency of the national NGO. The major strength of civil society groups is that they have a grassroots base. In addition, their ability to organize communities and their credibility are also major strengths.

Citizens' groups are helped by the fact that the national leadership itself advocates active civil society participation and the politico-administrative environment is hospitable to such participation. In the words of one respondent, "The President himself advocates partnership with NGOs and POs, pushing Cabinet secretaries to consult their respective sectors regularly on policies and programs."

But the respondents also cited weaknesses, among them the lack of technical capabilities that hamper the ability of some civil society groups to influence the executive. As one respondent said, "It has been difficult to present arguments to government officials in the formal venues because these officials have the advantage of a large staff and resources to do research and preparatory work. (In contrast) we would normally have to rely on our limited human resource capability to provide staff support to our representatives. (Additionally) our representatives have to present their own ideas without the benefit of consultation with our members because government meetings are usually called hurriedly."

As will be illustrated in the section on the formulation of the Social Reform Agenda and Philippine Agenda 21, civil society groups put a premium on process and consultation among their members, and this is one of their outstanding strengths. Sometimes, however, the process becomes cumbersome and makes them unable to respond immediately to government concerns. It is recognized that, at times, government has to arrive at decisions quickly, but this goes against the grain of the normal consultative procedures that mark NGO operations.

Illustrating the Influence of Civil Society on Policy Making in the Executive: *Two Cases*

This section deals with two specific cases that illustrate the extent of the influence of civil society on the executive and in the formulation of specific national policies. Civil society played a major role in the formulation of the Social Reform Agenda and the Philippine Agenda 21. Both policies form the cornerstone of the administration of President Ramos. The formulation of these policies was marked by intensive, bottom-up, vertical and horizontal consultations, including pre-summits and summits. Another key feature of the process is the public declaration of commitment of all sectors to the policies.

The Social Reform Agenda

The Social Reform Agenda (SRA) was drawn from a wide range of consultations that underscore the partnership between the government and non-government groups in formulating the country's development thrusts. The SRA was based on the outputs of these consultations.

The SRA included the inputs from a series of consultations with various sectors. These consultations included the National Peace Conference, the People's

Caucus, the People's Agenda for Development and Democracy, and the Social Pact of March 1993. Also included were the recommendations of the nationwide consultations conducted by the National Unification Commission in 1992 and 1993 in an effort to list down the social, political and economic reforms needed to address long-standing inequities in Philippine society.

The results of consultations conducted by the Presidential Council for Countryside Development with the 19 poorest provinces also served as guides in drafting the final form of the SRA. In addition, the basic documents used in formulating the SRA were the MTPDP, the Local Government Code, the Social Pact for Credit, the Strategy Paper to Fight Poverty, the Tripartite Action Plan for Structural Adjustments, and the Urban Development Framework Plan which were also products of consultative processes.

The Social Reform Summit in 1993 was preceded by months of inter-agency consultations and planning and further consultations with various social sectors. The Summit also involved multi-sectoral representatives from local government units, people's organizations and non-government organizations, including the Church, in the 19 priority provinces.

Three years later, in March 1996, the President convened a National Anti-Poverty Summit. It was referred to as the "mother of all summits" to underscore the government's efforts to integrate and put together the initiatives of the various sectors in addressing poverty. According to the President,

> This National Anti-Poverty Summit seeks to merge the many interventions of both government and non-government organizations in the effort to raise our people's standard of living [and in the pursuit] of justice and prosperity [and peace and development].

Represented in the summit were national and local government officials, farmers, urban poor, indigenous people, fisherfolk, youth, women, persons with disabilities, leaders of the business sector, and leaders of the church, academe, and the media. In fact, two-thirds of the people participating in the summit were from the poorest social sectors. As the President, said:

> This is as it should be. Our basic sectors have the highest stakes in the war against poverty. It is they who will gain principally if we are able to overcome. It is they not us in government or in the business sector who stand to lose most is we are defeated.

For the SRA to succeed, it is imperative that efforts be made to strengthen and fortify the partnerships between the government and civil society. As NGO representative Teresita Deles pointed out during the Summit,

> If the Social Reform Agenda represents a covenant between GO, POs and NGOs in the fight against poverty, how do we strengthen that covenant so that it can stand the strain and stress of the different styles of work and the different priorities and perspectives? How do we fortify (it) so that it can bear the weight of GO/NGO/PO partnership, not to mention the burden of centuries-old poverty?

Deles also emphasized the continuing need for "convergence" of the efforts of all sectors in order to properly address the problem of poverty.

The formulation of the SRA which culminated in a national anti-poverty summit shows how government and civil society can work together to address a common problem. Civil society groups insisted on the need for intensive and even arduous consultations among its ranks, and the crafting of many documents, resolutions and declarations of commitment. These eventually found their way into the SRA. Government's role may have been to convene the summit, but the key role of civil society in paving the way for its success cannot be denied.

Philippine Agenda 21

As part of the country's efforts to fulfill the commitments it made in the historic Earth Summit in 1992, the Philippine Agenda 21 convened representatives of key social sectors in order to forge a consensus on an action agenda for sustainable development. It identified the key actors in ensuring sustainable development: the government, business and civil society. It also framed a functional differentiation of modern society into three realms – the economy (where the actor is business), the polity (where the actor is government) and culture (where the key actor is civil society). The three realms are interacting, dynamic and complementary components of an integral whole.

The formulation of Agenda 21 was led by the Philippine Council for Sustainable Development (PCSD). The committee chair was jointly shared by one representative from government and one from civil society. Extensive consultations marked the whole process of the formulation of Agenda 21.

At first the government, NGO coalitions, business and other sectors conducted consultations within their ranks. Representatives of these groups then met periodically to come up with a consensus document. The "Principles of Unity" that emerged from these meetings laid the foundation for Agenda 21. It was a document that was truly crafted by all the sectors. The influence of civil society was obvious in both the language and the content.

This was how the director-general of the National Economic and Development Authority described the rigorous consultation process:

> The consultation process commenced with the first round of regional cluster consultations, the main objective of which was to generate common issues and approaches in resolving these issues at the local level and to seek consensus on a sustainable development framework. Parallel consultations were held by non-government organizations, business, youth, health, labor, urban poor and other sectors. The outputs from these consultations were then integrated into a draft PA 21 and enhanced by a number of development practitioners and advocates. This draft was then subjected to a feedback/consultation/review involving all previous and other interested participants. As the draft PA 21 traveled across the regions, agencies and sectors, numerous other review sessions were conducted which were initiated by interested individuals and institutions. That early, we had already felt the ripple effect of the consultation process as a potent advocacy mechanism. In fact, it generated so much enthusiasm in some places that they already set up their local PCSDs to prepare for the eventual implementation of the Philippine Agenda 21 and to address the already pressing concerns.[5]

Major stakeholders involved in the formulation of the Philippine Agenda 21 included farmers and landless rural workers, fisherfolk, indigenous peoples, urban poor and other disadvantaged groups such as workers in the informal sector, women, children and youth, persons with disabilities, elderly, disaster victims and overseas contract workers and the intermediaries. The NGOs together with other formal institutions like national and local government units, the business sector, church-based organizations, civic groups and professional associations, the mass media, and the international community were among the intermediaries.

The Philippine Agenda 21 has been guided by the key concepts of integration, multi-stakeholdership, consensus-building and operationalization. Its action agenda identified areas where civil society can play a role in integrating sustainable development principles/visions/parameters in decision-making processes and in such efforts as greening the workplace, giving fair remuneration, establishing a task force for child labor, reviewing policies on land conversion, working for the passage of the National Land Use Act, and improving access to reproductive health services.

Civil society groups can also be brokers of information and appropriate technologies. They can also mobilize resources but can also upset the smooth flow of resources and impede the achievement of desired goals. They can be networkers, strengthening institutional linkages through information flow, technology transfer, resource sharing and exchange, thus facilitating links and interphases among themselves. They can be trainers and product enhancers with their expertise and available technologies.

Moreover, civil society directly enhances the capacities of communities and social formations for meaningful intervention in the various ecosystem processes. Civil society builds on the countless formal and informal relationships that structure the day-to-day activities of Filipinos.

Strengthening Civil Society's Influence on the Executive

To maximize existing venues of dialogue and exchange that will enable civil society to meaningfully influence policy-making, the following courses of action are suggested.

Specialize and focus. NGOs and POs must decide to focus on specific areas where they have the "comparative advantage" not only in terms of skills but also in terms of geographical and sectoral focus and specialization.

Take full advantage of the formal mechanisms made available to civil society. While these are not necessarily the only means nor the most effective mechanisms for influencing policy, it would be wise to take full advantage of them if only because "they are there." Civil society groups must give the formal structures and mechanisms offered by government the benefit of the doubt. Only if they take the effort to participate can these groups work toward effective and genuine partnership with government.

Coalesce with other like-minded members of civil society. This is necessary in order to complement efforts, map out territories and avoid wasteful competition and duplication of efforts. Coalition and formation-building also provides

opportunities for small NGOs and POs to strengthen their own capabilities and networks so that they can be better at influencing the executive branch.

Conduct policy-research. Information and knowledge are always sources of power. This is especially true if an NGO is able to establish a "track record" of being a credible source of specialized information.

Build capability in areas that may need strengthening. This may include increased appreciation of government rules and procedures, negotiation skills, etc.

Continue the dialogue between government and civil society. This is one of the most critical areas for maximizing the efforts of both sectors in nation building. Formal structures and channels should constantly be reviewed with the ultimate objective of making them more responsive to the needs of their constituencies. The lines of communication through informal channels should likewise be maximized.

Monitor and evaluate constantly. There should be continuing self-examination. For instance, groups should regularly ask themselves whether they remain credible and whether they are able to fulfill their commitments and stand by their statements.

Civil society groups should also concentrate on where they are strong. Otherwise, they minimize their impact and influence. As DANILO SONGCO said, "NGOs, POs should focus on specific areas where they can engage government rather than trying to spread themselves thinly over every aspect of governance."

Conclusion

Civil society should play a key role both in the formulation and the implementation of fundamental policies of the government. To do so, citizens' groups must be able to influence the executive branch, either through the office of the president or through the members of the Cabinet. Their roles can range from simply being information providers and data gatherers, to being advocates and consultants on what polices to adopt. They can even be actual formulators and implementers of policy.

Influencing the executive and the Cabinet can be done through both formal and informal channels. Formally, civil society groups are allowed to sit in various interagency councils, often with voting privileges. They are part of the infrastructure for broad-based consultation and they legitimize the process of policy formulation.

But influencing the executive and the Cabinet should go beyond formal structures and processes. Sometimes, informal processes and consultations are more effective. These are where frank exchanges take place, deals are struck, and compromises are arrived at. Agreements are then formally made in the signing of memorandums, compacts, etc. that usually mark the culmination of an important public event, such as a summit, in which both government and civil society take part.

Civil society must recognize its strength and weaknesses if it wants to maximize its influence on the executive. The strengths of civil society lie in its large constituency and its ability to organize and mobilize a grassroots following. Groups

should not overstate their strength, especially when their organizations — and even leadership — are fragmented.

The dialogue and constant communication between government and civil society should be maintained. The conduct of joint and parallel consultations in the formulation of key policies should likewise be encouraged, especially if they take place in a regime of openness and transparency. The formulation of Philippine Agenda 21 and the Social Reform Agenda are examples of such partnerships. No less than the Philippine Constitution provides the policy infrastructure for such efforts. At the local level, the Local Government Code sets the parameters for citizen participation.

Civil society should be cognizant of its role and its "comparative advantage" in monitoring policy implementation from a people's perspective. It is also civil society's responsibility to provide feedback to government, utilizing both formal and informal channels. Such feedback sustains the implementation of well-crafted and people-oriented policies and programs.

ENDNOTES

1 This is referred to by some as a process of "redemocratization."

2 World Bank, *Development in Practice: Governance, The World Bank's Experience* (Washington DC: World Bank, 1994), p. vii.

3 Ibid.

4 Hilton Root, "Managing Development Through Institution Building," *ADB Occasional Paper No. 12*, October 1995.

5 See Preface, *Philippine Agenda 21* (Philippine Council for Sustainable Development, September 1996).

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- National Congress of Unions in the Sugar Industry of the Philippines (NACUSIP-TUCP)
- Multi-Sectoral Alliance for Development (MUAD-NEGROS)
- Social Reform Council
- DA-Office of the Provincial Agriculturist, Negros Occidental
- Philippine Futuristics Society, Inc.
- Coalition of Development NGOs (CODE-NGO)
- ABS-CBN Foundation
- Institute for Social Studies and Action (ISSA)
- ECPAT, Philippines
- Provincial Aquamarine Coordinating Committee (PAC)
- Philippine Legislators' Committee on Population and Development (PLACED)
- Various local officials (mostly municipal mayors) during the regional consultations of the League of Municipalities of the Philippines held in Davao, Aklan and Puerto Princesa
- NGOs in Bacolod City

PATRICIA ANN V. PAEZ

SYNOPTIC PAPER

State-Civil Society Relations in Policy-Making *Focus on the Legislative*

Introduction

The Philippine legislature was resurrected with democratic vigor in 1987 when the Eighth Congress (1987-1992) was elected. In 1992, the Ninth Congress (1992-1995) was sworn into office, marking the first peaceful and orderly transfer of power through the ballot since the 1986 "people power" revolution. This pivotal period symbolized the triumph of civil society in defending a fragile democracy.

Accomplishments of the Eighth Congress

Sired as it was by "people power," the Eighth Congress devoted much of its attention to broadening and deepening the legal bedrock of popular empowerment in both the political and economic spheres. It passed landmark legislation that contributed to the democratization of political power. This included the following:[1]

(1) An Organic Act (RA 6734) creating the Autonomous Region in Muslim Mindanao (ARMM) to be composed of the provinces and cities that will vote for autonomy in a special plebiscite. The Act states that a popularly-elected regional governor will head ARMM's executive branch while legislative power will be vested in the Regional Assembly. Judicial power will remain under the supervision of the Supreme Court. But the Shari-ah appellate court and other tribal appellate courts will administer justice to Muslims and other indigenous communities in matters of religious belief, customs, laws and values.

(2) The Initiative and Referendum Act (RA 6735) allowing the people to directly propose, enact, approve or reject, in whole or in part, the Constitution, laws, ordinances, or resolutions passed by any legislative body;

(3) An Organic Act (RA 6766) creating the Cordillera Autonomous Region (CAR) to be composed of the city and provinces that will vote for autonomy in a special plebiscite. This measure hopes to ensure the Cordillera people's right to their ancestral domain, establish a system of governance for them, and promote their cultural heritage.

(4) The Local Government Code of 1991 (RA 7160) decentralizing the powers, authority, responsibilities and resources of the national government in order to make local government units self-reliant. The Code also introduced the

mechanisms of recall, initiative and referendum to ensure the accountability of local government officials.

In addition, the Eighth Congress enacted the following laws intended to speed up economic recovery and development:

(1) The 1988 Comprehensive Agrarian Reform Law of 1988 (RA 6657) mandating that no person may own or retain any public or private agricultural land beyond retention limits to be determined by the Presidential Agrarian Reform Council (PARC). Land given up for redistribution shall then be parceled out to landless farmers, farm workers, agricultural lessees and share tenants, collectives or others working directly on the land.
(2) The Magna Carta for Countryside and Barangay Business Enterprises or the Kalakalan 20 (RA 6810) encouraging the growth of countryside business enterprises which employ up to 20 people. It simplifies laws on the registration and operation of these enterprises and grants them exemptions from all national and local taxes, with certain limitations.
(3) The Cooperative Code of the Philippines (RA 6938) promoting the growth of cooperatives and commanding the government to provide technical guidance, financial assistance and other services to them;
(4) The Foreign Investment Act (RA 7042) providing incentives to attract foreign investments to the country except in economic sectors where foreigners are barred from investing;
(5) The People's Small-Scale Mining Act (RA 7076) establishing the People's Small-Scale Mining Program to achieve a systematic and rational scheme for the small-scale development and use of mineral resources;
(6) The Countrywide Industrialization Act (RA 7368) promoting the establishment of manufacturing, processing and related industries in the countryside by providing financial assistance ranging from P30 million to P40 million to every town and city;
(7) An Act Granting Tax and Duty Exemption and Tax Credit on Capital Equipment (RA 7360) which gives up to 100 percent exemption from customs duties and national internal revenue taxes;
(8) The Rural Banks Act of 1992 (RA 7353) encouraging the establishment of a rural banking system that will make credit available and accessible in the rural areas on reasonable terms; and
(9) The Bases Conversion and Development Act of 1992 (RA 7227) creating the Bases Conversion and Development Authority which aims to hasten the sound and balanced conversion of military reservations for productive uses.

Other important laws enacted by the Eighth Congress were those defining and penalizing the crime of plunder; establishing the Department of Interior and Local Government (DILG); providing for free public secondary education; creating the Abot-Kaya Pabahay Fund which provides for a socialized housing program for the underprivileged and the homeless; creating a Board of Claims for victims of unjust imprisonment, detention or violent crimes; and strengthening the law prohibiting discrimination against women.

But indisputably, the "crown jewel" of the Eighth Congress was the Senate's rejection of the draft treaty that would extend American military presence in the Philippines.

Accomplishments of the Ninth Congress

The performance of the Ninth Congress has been hailed as unprecedented in Philippine history because in just 90 session-days, it was able to enact 46 major laws.[2] In the political sphere, among major laws that were passed were the following:

(1) The Party-List System Act (RA 7941) allocating 20 percent of the seats in the House of Representatives to marginalized and under-represented sectors, organizations, and parties.
(2) An Act Amending Section 27 of Republic Act No. 7166 or the Act Providing for Synchronized National and Local Elections and for Electoral Reforms (RA 8045) which attempts to discourage election fraud by requiring that the sixth copy of the election returns prepared by the board of election inspectors be given to the citizen's arm authorized by the Commission on Elections (Comelec); and
(3) An Act Authorizing the Comelec to Pilot-Test a Computerized Election System (RA 8046) in the voting, counting and canvassing of votes in the 1996 ARMM elections.

Among the economic-related laws passed by the Ninth Congress were the following:

(1) An Act Rationalizing and Strengthening the Anti-Dumping Law (RA 7843) to protect Filipino enterprises against foreign competition and unfair trade practices;
(2) Export Development Act of 1994 providing for the formulation of a Philippine Export Development Plan (PEDP) and incentives to exporters;
(3) An Act Instituting a New System of Mineral Resources Exploration, Development, Utilization and Conservation (RA 7942) providing for a legal framework that will govern the management, exploration, utilization, development, conservation of mineral resources within the territory and exclusive economic zone of the country; and
(4) The Technical Education and Skills Development Act of 1994 (RA 7796) creating the Technical Education and Skills Development Authority or the TESDA to ensure efficient technical education and skills development of Filipino middle-level manpower, in line with the country's goal of achieving global competitiveness.

Other laws enacted by this Congress provide for comprehensive and integrated shelter and urban development financing, the institution of a national health insurance program, the prohibition of all forms of sexual harassment in the work, education and training environment; the fair and equitable access to education; the strengthening of the implementation of the agrarian reform program; the protection of migrant workers and overseas Filipinos; and the modernization of the Armed Forces of the Philippines (AFP).

The Tenth Congress (1995-1998) was sworn into office in an environment of political stability and significant economic growth. By that time, the national reunification process had gained way, with revolutionary groups from both the extreme Left and the extreme Right being won over by government efforts to bring them back into the mainstream of society.

First Regular Session of the Tenth Congress

The first regular session (July 1995-June 1996) of the Tenth Congress resulted in the passage of 20 vital national bills exceeding the previous year's record of 17 bills.[3]

The legislative thrust was to sustain the economic growth momentum. Among the laws passed were those providing for the deregulation of the downstream oil industry (RA 8180); replacing quantitative restrictions (QRs) on agricultural products except rice (RA 8178); further liberalizing foreign investments (RA 8179); excluding the Official Development Assistance (ODA) from the foreign debt limit (RA 8182); restructuring the excise tax on petroleum products (RA 8184); strengthening the Crop Insurance Program of the government (RA 8175); and imposing double indemnity for the prescribed increase in the wage rates (RA 8188).

In the political field, the focus was on measures to advance devolution and electoral reforms. These included granting all citizens' arms equal opportunity to be accredited by the Commission on Elections (RA 8173) and providing for a general and continuing system of voters' registration (RA 8189). In addition, local government units were allowed the use of the five- percent calamity fund out of the internal revenue allotment for calamities and disasters without waiting for the President's declaration of a state of calamity in affected areas (RA 8185).

Lines of Inquiry

This paper will attempt to provide answers to the following questions:

- What areas of intervention are formally and informally available to civil society actors in the legislative branch of government?
- Which of these areas have been utilized or under-utilized by business, churches, media, academic institutions, non-government organizations (NGOs), peoples' organizations (POs) and other actors? What factors would account for such utilization or under-utilization?
- What have been the strengths and weaknesses of these actors in the course of intervention? What factors account for these strengths and weaknesses?
- How can civil society actors fully maximize existing venues for intervention? What other venues need to or can be developed?

Definition of Civil Society Actors

For the purpose of this paper, "civil society" or "civil society actors" will refer to non-state actors or to those who, either by election or appointment, do not form part of the formal state apparatus that includes the executive, legislative and judicial branches of government.

Outline of the Presentation

This paper is divided into eight sections. The first section covers the constitutional and legal rights of civil society actors that empower them to be actively involved in legislation.

The second section tackles the power grid and the current political alignments in Congress, the key and supporting players within it, and the roles they play in the legislative process.

The third section deals with the processes and mechanisms in law-making as well as the basic elements of the "internal strategy" which refers to the civil society actors' game plan in pushing their causes through the legislative mill.

The fourth section discusses the "external strategy" which refers to civil society actors' complementary lobbying efforts outside the halls of Congress. It focuses on the need to lobby the executive branch, the media and the legislators' constituents to bring about desired results in the legislature.

The fifth section attempts to assess the degree to which civil society actors have used both the formal and non-formal areas for legislative intervention and to analyze the factors that affect their effectiveness to do so.

The sixth section analyzes the strengths and weaknesses of civil society actors in influencing legislation.

The seventh section draws some insights and lessons from past legislative campaigns that can be instructive for civil society actors.

The eighth and final section proposes an eight-point action agenda which civil society actors can undertake to maximize existing venues for legislative intervention and explores new avenues which they can explore to ensure a more responsive and accountable legislature.

The Constitution and Civil Society

The architects of the 1987 Constitution labored under the trauma of how the previous Constitution was used to legitimize authoritarianism. Thus, they armed civil society with the legal weapons to protect and assert itself.

The 1987 Constitution states that it is every Filipino citizen's right to directly engage in the task of law-making and to lobby Congress:

> Art XIII, Sec 16: The right of the people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making shall not be abridged. The State shall by law facilitate the establishment of adequate consultation mechanisms."[4]

The citizen's right "to directly propose, enact or approve, or reject any act or law or part thereof passed by Congress or any local legislative body"[5] is likewise stipulated in the Constitution. This principle of citizens' initiative and referendum makes the Philippine Constitution supremely unique.

The Initiative and Referendum Act

The Eighth Congress passed the Initiative and Referendum Act[6] to put flesh to this Constitutional mandate.

Under the system of initiative, the people may make a petition to (1) amend the Constitution; (2) enact national legislation; or (3) draft a regional, provincial, city, municipal or barangay law, resolution or ordinance.

The people may also exercise "indirect initiative" by proposing a measure to Congress or to the local legislative body for action. The law also provides for a

system of referendum where the electorate may approve or reject a law through an election called for the purpose. All registered voters of the country, autonomous regions, provinces, cities, municipalities and barangays may exercise the power of initiative and referendum.

To exercise the power of initiative or referendum, at least ten percent of the total number of registered voters must sign a petition for the purpose and register it with the Comelec. In the petition, any legislative district must be represented by at least three percent of the registered voters there.[7]

On the other hand, a petition for an initiative on the 1987 Constitution must be signed by at least 12 percent of the country's total number of registered voters. Every legislative district must be represented by at least three percent of its registered voters.[8]

Party-List Representatives

The Constitution also mandates the inclusion of party-list representatives in the House of Representatives. These representatives will constitute 20 percent of the total number of seats in the House, including those who are part of the party list.[9]

In line with this constitutional provision, the Ninth Congress passed the Party-List System Act[10] to ensure the representation of marginalized and under-represented sectors, organizations and parties in the House.

Any organized party, organization or coalition representing the following sectors must register with the Comelec if they want to be included in the party-list system: labor, peasant, fisherfolk, urban poor, indigenous cultural communities, elderly, handicapped, women, youth, veterans, overseas workers and professionals.

Qualified organizations may nominate not less than five names from their group 45 days before the elections for the House of Representatives.

Every voter shall be allowed two votes: the first one indicating his choice of representative for his legislative district, and the other, his choice of the party, organization or coalition he wants represented in the House.

Those parties garnering at least two percent of the total votes cast for the party list will be entitled to one seat each. Those getting more than two percent will be entitled to additional seats in proportion to the total number of votes they won.

Party-list representatives will be obtained from the list of nominees of the winning groups according to their ranking. Direct voting by citizens under the party-list system will be implemented beginning with the 1998 elections and in every congressional election thereafter.

The Constitution further guarantees respect for the rights of persons appearing in or affected by congressional inquiries in aid of legislation.[11] It also states that even legislative bodies of local government shall have sectoral representation.[12]

Qualified Filipino voters also shape the kind of congressional representation they want and think they deserve. The Constitution further ensures that "a free and open party system shall be allowed to evolve according to the free choice of the people."[13]

Clearly, the fundamental law of the land amply promotes civil society's rights to choose legislators, to oversee and directly participate in legislation, and even to make or unmake laws. This is in full consonance with the libertarian tenet that "sovereignty resides in the people and all government authority emanates from them."

Doing Battle in the Legislative Arena

Even if the legal and institutional infrastructure for participatory democracy is now in place, civil society must learn to grapple with the specific realities and dynamics of the legislative arena. It takes more than conviction and belief in the justness of one's cause to prevail in this battleground. Moreover, although the Constitution contains ironclad provisions that guarantee civil society's rights to legislate, it was not accompanied with a manual of instructions.

It takes a master strategist, an astute tactician with lots of political savvy, a public relations expert, a diplomat and a wily negotiator with the patience of Job — all rolled into one —to win the day in Congress. If they are to succeed in pursuing their legislative agenda and making their voices heard in a cacophony of other voices, civil society organizations must understand how the complex labyrinth of Congress works and what motivates the players within it.

The Power Grid in Congress

Congress is divided into two chambers: the Upper House which is the Senate and the Lower House which is the House of Representatives.[14]

The Legislators

The Senate is composed of 24 senators elected at large for a six-year term and who can be re-elected for another term. The House of Representatives, which should be composed of not more than 250 members, are elected by district. Presently, there are 204 congressmen. Each representative is entitled to a three-year term and is allowed only three consecutive terms.

In addition, there are 17 sectoral representatives in the Lower House who were appointed by the President and confirmed by the Commission on Appointments. The sectors represented so far are the following: cultural communities, labor, overseas contract workers (OCWs), youth, women, peasant, fisherfolk and the urban poor.

As the citizens' direct voting for the party-list representatives will not be implemented until the 1998 elections, the present crop of sectoral representatives are all presidential appointees. This is provided for in Art. VI, Section 5 (2) of the Constitution, which states: "For three consecutive terms after the ratification of this Constitution, one-half of the seats allocated to party-list representatives shall be filled, as provided by law, by selection or election from the labor, peasant, urban poor, indigenous cultural communities, youth, and such other sectors as may be provided by law, except the religious sector."

The Officialdom

Each chamber has its own official hierarchy, organizational structure,[15] rules and procedures.[16]

The key officers of the Senate are the Senate president, the Senate president pro tempore, the majority floorleader, the minority floorleader and the Senate secretary.

In the House, the top brass is composed of the speaker, the three deputy speakers representing Luzon, Visayas and Mindanao, the majority floorleader, the minority floorleader and the secretary-general.

There are 38 standing committees in the Senate. In the House, there are 47 standing committees, 19 special committees and one ad hoc committee.[17]

The Supporting Crew

Civil society actors who want to know what is happening in a Senate committee must touch base with two persons: the legislative committee secretary who is in charge of secretariat needs and the senator's committee secretary who heads the technical staff and is therefore the "point-person" on substantive matters. The technical team is recruited by the Senator who chairs the committee.

As political appointees, the technical staff 's term of office is coterminous with that of the appointing senator. The legislative committee secretary, on the other hand, is a career employee who is part of the Senate secretariat.

In the House, there is only one person to deal with: the legislative committee secretary who provides both secretariat and technical support to the committees. This person has more responsibilities and exercises greater powers than the Senate's legislative committee secretary. But like the latter, he occupies a permanent plantilla item, is not coterminous with the committee chairperson and is also part of the House secretariat.

Since they are permanent employees, the legislative committee secretaries are perhaps the most informed about committee work. Often, they are better informed than the legislators who preside over the committees. The committee secretaries have the institutional memory as far as legislation is concerned. Members of Congress may no longer be re-elected or could be in their last term, and their committee chairmanships may end either by choice or because of shifting political alignments. Committee secretaries, on the other hand, usually stay in the committees longer than the senators or congressmen who compose them.

A legislator's office is run by a chief of staff who, depending on the trust and confidence in him by his superior, is either expected to simply manage the office or serve as his alter ego.

Along with the legislative committee secretaries, the chiefs of staff are the first access points to the committees and to the legislators. They are crucial contacts for setting an appointment for a meeting, presenting a proposal, or discussing the battle-plan to be used to push for, or blocking, a measure.

It would be a gross mistake to bypass legislative committee secretaries by insisting on seeing a committee member directly, or to underestimate their place in the totem pole of power. Committee members will usually refer queries back to

the secretaries, anyway, since it is the latter who are assigned the "dirty job." By using legislative secretaries as conduits, lobbyists can obtain tips on the best way to get a legislator's attention and/or support. As the initial processors and filters of information, secretaries can make recommendations which can be favorable or unfavorable to lobbyists.

Political Alignments and Realignments

Traditionally, the key officials of either chamber are from the political party that has numerical superiority. But political expediency sometimes takes precedence over party discipline or cohesiveness. Power sharing among unlikely personalities to assure their individual survival, rather than obtain party goals, has become the norm. That is why legislators rarely vote according to party lines.

The Senate 'Mutant'

For example, the 1997 "coup" in the Senate gave birth to a mutant. The new majority that resulted from the coup calls itself the "united opposition" and is composed of 13 members who have different party affiliations. It is headed by Ernesto Maceda of the Nationalist People's Coalition (NPC), a party which oddly enough, has only two members in the 24-member chamber.

This bloc is composed of the following: five senators from the Laban ng Demokratikong Pilipino (LDP)-Angara wing, namely Blas Ople, Ernesto Herrera, Marcelo Fernan, Francisco Tatad and Vicente Sotto III; two senators from the ruling Lakas-NUCD, namely Juan Flavier and Franklin Drilon; two independents, Gregorio Honasan and Orlando Mercado; one from the Liberal Party (LP), Juan Ponce Enrile; and the only other member of the NPC, Anna Dominique Coseteng.

Though it calls itself the "united opposition," Senate President Maceda has also assured President Ramos that the Senate revamp will not affect the expeditious passage of vital bills included in the common legislative agenda of Congress and the executive branch. A compleat political chameleon, Maceda's assurance gains some credence owing to the fact that he is related by affinity to House Speaker de Venecia, who is the concurrent secretary-general of the administration party, the Lakas-NUCD.[18]

Similarly, the members of the minority hail from different political parties. There are two from the Lakas-NUCD, namely Leticia Ramos-Shahani and Sergio Osmeña III; four from the LDP — Raul Roco, Heherson Alvarez, Gloria Macapagal-Arroyo and Neptali Gonzales; one from the LP, Ramon Magsaysay, Jr.; and Alberto Romulo who recently resigned from the LDP.

Remaining under the so-called "uncategorized bloc" is Miriam Defensor-Santiago of the People's Reform Party (PRP).

The House's Rainbow Coalition

Due to the coup in the Senate, realignments were also expected in the Lower House. But the Lakas-NUCD's majority of 132 members has managed to remain intact and is even wooing defectors from the 29-member LDP.[19] De Venecia had earlier forged a "rainbow coalition" among varying political parties, such as the Liberal Party with 14 members and with the Nacionalista Party with 2 members. In

the minority are the NPC with 29 members, the Kilusang Bagong Lipunan with two, the PDP-Laban with one, and two independents.

Mini-Power Centers

Mini-power centers in the House also exist. These include the "Northern Alliance" made up of Northern Luzon congressmen; the "Mindanao Caucus" composed of those who represent the Mindanao legislative districts; the "Young Turks" whose members are below 45 years old; the "Women's Caucus" composed of female legislators; the "Batch '92" made up of congressmen who were first elected to the House in 1992; and the so-called "progressive bloc" of the Lakas-NUCD.

LEDAC: *Superbody*

There is also a superbody called the Legislative-Executive Development Advisory Council (LEDAC).[20] It is a consultative and advisory body which coordinates executive development planning and congressional budgeting. LEDAC is a policy "clearinghouse" where the competing legislative priorities of Congress and the executive branch are threshed out, draft bills on vital issues are discussed, and a consensus is reached on which bills should be considered urgent.

Ostensibly created to avoid a gridlock in the decision-making process and to fast-track lawmaking, the LEDAC has alternatively been praised for achieving just that, or criticized for usurping the prerogative that rightfully belongs to Congress.

Chaired by no less than the president himself, or in his absence by the executive secretary, it is composed of key members of the Senate and the House.

Since even Malacañang has to lobby in Congress, another agency called the Presidential Legislative Liaison Office (PLLO) was set up. Its mother office is in Malacañang and it has satellite offices in the Senate and the House, which are staffed by the legislative liaison officers of all the major line departments of the executive branch.

In these bodies are the lead actors and the supporting crew who perform on the congressional stage. Civil society organizations that wish to have an inside track on Congress should be familiar with their names and faces and develop access to this cast of characters.

Apart from familiarity with both the key players and the formal structures of Congress, civil society actors must also be knowledgeable about the processes and mechanisms of lawmaking. If they know which buttons to press and which levers to pull, they can themselves become dynamic players in congressional decision-making.

"Internal Strategy": *The Legislative Mill*

Those who wish to influence the lawmaking process need to prepare an "internal strategy" or overall game plan to ensure they are heard in Senate and House committees and in the plenary of both Houses. A good strategy ensures that Congress approves the bills they want passed.

A basic knowledge of how a bill becomes a law is a must.[21] "Proceeding from this basic knowledge, you can then work your way up to more sophisticated methods of intervention," stressed Armand Sebastian,[22] a seasoned Senate staffer.

Drafting of the Legislative Measure

The first area of direct intervention for civil society actors is in the bill- or resolution-drafting phase. Every bill passed by Congress should cover only one subject which is stated in the bill's title. Any individual, organization, the executive branch or a member of Congress may prepare it.

Those who wish to assume a pro-active stance instead of a merely reactive one can submit drafts of proposed bills or proposals for congressional investigation and give these directly to legislators for sponsorship. Drafts do not have to be perfect, as they will be refined in the later stages of the legislative process.

As Senator Juan Flavier put it: "While legislators have their own perspective of things, they normally derive their insights and legislative proposals from outside the halls of Congress — from the people and organizations that bring out the country's different problems and who know best what they need in terms of legislation."[23]

Preparing for a Presentation

Draft bills must be accompanied by a concise briefing paper that clearly and logically presents the rationale for the measure. They must spell out who will benefit from a bill, who will be disadvantaged, and how. Facts must be accurate and authoritative. Proponents who use surveys or opinion polls to substantiate their arguments have an edge. It is also useful to cite precedents and to include the legislative chronicles of similar cases. Presenting erroneous information erodes a proponent's credibility. Proposals should pass the test of rigorous scrutiny and arguments presented should be able to withstand intensive grilling by legislators, at least 50 percent of whom are lawyers.

Searching for a Sponsor

The next step is to scout for a bill sponsor. The key is to find a legislator who can credibly espouse and champion the proposed bill. Choosing as sponsors officials of either House or the chair or the active members of the committee to which the bill will likely be referred to will boost the chances of a bill's approval. Civil society actors must therefore know the scope of work of the various committees and sub-committees in Congress so they can readily identify the key personalities who will take part in the bill's deliberations.

Sponsors who share the same philosophical leanings as the groups lobbying for the bill can be expected to defend it with more conviction. A sponsor can be approached through both formal and informal channels. The formal channels are mainly Congress officials, while informal channels can be the sponsor's personal friends, relatives or former professional colleagues who can make referrals and facilitate the "accessing" process. Having institutional ties or any form of affinity with the legislators — such as being a fellow member of a civic organization, a religious denomination, a fraternity or sorority, a fellow alumnus of the same school — can go a long way in setting introductions. The fail-safe way of gaining

access, however, is to be a constituent or to represent a vast field of grassroots votes.

After it has been ascertained that there is as yet no existing law that will make the bill redundant or that it does not violate any Constitutional provision, any member of Congress can sponsor and file it. It is then brought to the Bills and Index Division — the repository of all bills and resolutions in Congress — which gives it a number.

First Reading

Three days after its filing, the numbered bill is included in the order of business for First Reading in the Senate or House plenary session. The secretary reads its title and number and the speaker or designated presiding officer refers the measure to the proper committee or committees.

The first bill filed is not necessarily going to be the first bill to be taken up. It will take tenacious shepherding to push a bill through its formal rites of passage.

Committee Hearings

The second area of direct intervention for civil society actors is at the committee level. Here, investing goodwill and establishing good rapport with the legislative committee secretary and with the technical staff is a must.

These are the key people who recommend to the chair what bills should be prioritized in the agenda. They also advise on whether public hearings on the measure are necessary and suggest resource speakers. Moreover, they are the ones who will issue public notices about the hearings. They review the position papers of parties interested in the bill and prepare fact sheets and briefing papers for the committee members.

The secretariat staff also prepares the transcripts, the spot reports and minutes of the committee meetings or hearings. Access to these public documents is a right. The Constitution's Bill of Rights (Article III, Section 7) states: "The right of the people to information on matters of public concern shall be recognized. Access to official records and to documents, and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law."

In addition, the Code of Conduct and Ethical Standards For Public Officials and Employees (RA 6713) states that requests for official information should be acted upon by the concerned official or employee within 15 days from the filing of the request. Otherwise, such official or employee can be held liable under the law.

Those who have established good communication lines with the secretariat and the technical staff will find that their requests are easily granted even if they do not invoke their rights. It is also best to deal with the technical staff in a friendly and courteous manner; ruffling their feathers seldom helps.

If public hearings are not needed, the committee proceeds to deliberate on the bill. Civil society actors must not only monitor the committee meetings. It is their right to demand for a public hearing, to be represented, and to be heard. But with this right comes the responsibility to be an effective resource person and a

good communicator knowledgeable about the issues at hand. Since most legislators are lawyers, they are wont to use courtroom tactics in quizzing witnesses summoned to the hearings. Anticipating counter-arguments and having a dress rehearsal prior to taking the witness stand enhance a resource person's persuasiveness.

The hearings or deliberations may result in the adoption of the bill without amendments. The bill may also be amended, consolidated with other bills of a similar nature, or put in a substitute bill. A committee report on what action is taken is then prepared.

Since much of the spadework is done at this level, civil society actors should go out of their way to call on each of the members of the committee and try to get their message across effectively. A legislator's time is valuable, so presentations should be focused and well defined. Presenting two to three-page executive summaries is often better than lugging around voluminous studies or backgrounders.

Lawyer Arlene Dada-Arnaldo, who has been on various legislative staffs since 1987, said that the chair, the vice-chair, the committee members and the secretariat/technical staff are privy to the ultimate version of the bill that is likely to emerge. She advised lobbyists to be in touch with these people because they "can give you a low-down on developments which will not be apparent in open public hearings such as which parties are trying to influence the bill, who the principal and secondary oppositors to the bill are, whom to be wary of, whom to supply with more information, and whom to sway to one's perspectives." [24]

With such information, "you can counter adverse modes and make a counter-proposal as soon as possible,"she said. [25]

Technical Working Groups

The third area of intervention, but still at the committee level, is in the technical working groups (TWGs). These groups are created to iron out areas of conflict among bills covering the same subject, to cure legal or constitutional infirmities, and to take up other technical or substantive issues. The TWG meetings offer a preview of the actual committee meetings and are intended to ease the work of committee members. Civil society actors can ask to be present either as observers or participants in the TWG meetings.

Focusing lobbying energies on the committee is not a guarantee of success. But it could mean handsome rewards. It is relatively easy to be heard at this stage because there is only a small circle of influential players. In plenary, lobbyists have to reckon with at least 200 players where, as Dada-Arnaldo said, they will then be faced with "access constraints, resource constraints and time constraints." [26]

The quest for allies must begin at the same time as scouting for a suitable bill sponsor. This helps the bill sponsor win the support of the majority once the bill is put to a vote in plenary.

At the end of committee deliberations, a report on whatever decisions have been arrived at in committee is prepared. The committee may approve its report by a majority vote after which it is transmitted to the Committee on Rules which includes it in the "unassigned business."

The Committee on Rules

The Committee on Rules is another area where civil society actors must have friends or allies when they are pushing for, or blocking, a bill. This committee has the power to facilitate a bill's approval, to derail it, or hold it in its tracks. Rep. Manuel "Mar" Roxas II, a committee member who was instrumental in getting the nod of the rules committee on the anti-rape bill said: "You may have a perfect bill coming out of committee but if the rules committee does not calendar it, it is as good as stuck in the freezer."[27] This committee wields tremendous power; its decisions on the fate of a bill are final.

Question of Rules: *The E-VAT Case*

The Ninth Congress passed the Expanded Value-Added Tax (E-VAT) into law, but its implementation was suspended when Senator Arturo Tolentino questioned the constitutionality of the law before the Supreme Court. The high tribunal eventually upheld the law, which was implemented beginning January 1, 1996.

The law, however, was met with strong protests. Some legislators moved for its repeal, while others proposed amendments to limit the coverage of the law and rid it of what they said were its anti-poor and regressive provisions. Still others called for the law's suspension for at least one year.

Public hearings and committee meetings were conducted by the House Ways and Means Committee on the proposed amendments to the E-VAT. On December 7, 1994, the committee issued Report No. 94 on House Bill No. 5479. This report on the bill was scheduled for second reading or floor deliberations in January 1995.

During the plenary, Rep. Edcel Lagman insisted that he filed House Bill 4817 even before the Supreme Court had declared the constitutionality of the E-VAT law. That bill seeking to repeal the E-VAT law was then still pending with the House Committee on Ways and Means. He also pointed out that he had later filed House Joint Resolution 8 seeking the suspension of the E-VAT for one year to allow legislators to study its implications and finally decide what to do with it without being pressured by mounting grievances from the people. Lagman argued that his bill should take precedence over an amendatory bill on the E-VAT law.

Rep. Exequiel Javier, the chair of the House Ways and Means Committee, replied that the committee had rejected the repeal and suspension of the E-VAT and decided to introduce a measure to amend it instead.

Lagman then asked Majority Floorleader Rep. Rodolfo Albano (who also chairs the Committee on Rules) for his opinion on the matter.

Albano stressed that when a committee reports out a consolidated measure and if one of the principal authors feels that the committee has not properly considered a particular measure, then the author can register his objections to the House Secretariat and reserve the right to speak against the committee report. He, however, stressed that once the committee reports out a bill, all the committee proceedings on that measure are deemed terminated. He added that it now depends on the House to decide whether to favorably consider the committee report during the plenary session.

House Bill No. 5479 amending the E-VAT law was eventually passed in the Lower House although it has yet to be enacted into law. Meanwhile, the original E-VAT law remains in effect.

Second Reading: *Period of Debates and Interpellation*

Once a legislator requests that a bill be calendared for second reading and the rules committee approves it, it is assigned to "ordinary business." In plenary, the secretary reads the number, title and text of the committee report. What follows is a period of debate, sponsorship speeches, interpellation and *turno en contra*. Then, a phase of amendments, committee amendments and individual amendments takes over.

This is another area of indirect intervention for civil society actors. Alliance-building is the key strategy in this front. Civil society actors whether for or against a bill can help increase the combat-readiness of their warriors by loading them with ammunition for a decisive offense or defense. The debates at this stage are usually a reprise of the main arguments and counter-arguments that emerged during the committee hearings. Lining up a battery of facts, figures and statistics can help proponents win in this arena. Proposed amendments, additions, or deletions can still be considered at this stage, although the bill may have previously been modified in committee.

As a show of force, civil society actors can mobilize their supporters to attend the plenary debates and to boost the morale of the legislators who support them. Proper decorum should be observed in the galleries; public disturbances at this point will only be counter-productive.

Intervention by the Official Hierarchy

Access by civil society actors to the official hierarchy can be crucial especially in highly contentious bills. The officials of both Houses are ex-officio members of all the standing committees. Moreover, the committee chairs are supposed to report or explain to the Senate president or to the House Speaker the status of bills on their decks. The intervention of the officialdom can change the nature and alter the course of the deliberations when they give the appropriate signals.

Shelving the "Department of Fisheries" Bill

One example is that of the bill calling for the creation of the Department of Fisheries. The alliance of fisherfolk organizations raised a howl against the proposed department, saying this would only encourage the usual bureaucratic "top-to-bottom" approach and discourage grassroots participation. The bill was already passed on second reading in the Lower House. But after the alliance's representatives appealed to then Speaker Ramon Mitra, it was shelved.

CTRP's "Sin Taxes": *Defying Congress Officials*

A legislator can also request that a bill be taken up by the Committee of the Whole, meaning by the entire Senate or the House in plenary, instead of merely by a particular committee. In this case, caucuses to thresh out internal differences are usually held.

The Senate president or the House Speaker may also crack the whip to make members toe the party line. Speaker de Venecia did this to fast-track the passage of the "sin taxes" on beer and cigarettes under the Comprehensive Tax Reform Package (CTRP) whose chief lobbyist was no less than President Fidel Ramos himself. But in this instance, whip-cracking did not immediately bring about the desired results, showing that Congress or party officials cannot always impose their will. The reason: the bill was caught in the claws of competing interests jockeying for advantage within the Lower as well as the Upper House.

To begin with, the executive branch went through a rocky road before it was able to line up a battery of high-caliber sponsors for the bill. Speaker de Venecia was tasked with ensuring that the CTRP law would be passed by the House. However, the support of Rep. Javier, a Lakas-NUCD member and chair of the House Ways and Means Committee, and Rep. Renato Diaz, the vice-chair, were not enlisted by Malacañang. The reason for this omission was that there were persistent rumors that both Javier and Diaz were allies of Lucio Tan. One of the country's wealthiest businessmen, Tan is the owner of Asia Brewery Inc. (ABI) and Fortune Tobacco Co., which would be taxed heavily if the CTRP were enacted into law. The bill provided for a shift from *ad valorem* to specific taxation for beer and cigarettes.

On the other side of the fence was Andres Soriano, Jr. of San Miguel Corporation (SMC) which stood to gain from the tax reforms proposed by the Department of Finance. In the heat of the first skirmish over the CTRP, a white paper was circulated in the House, accusing some of the finance department's key officials of being pro-San Miguel.

Finance officials argued that the system of ad valorem taxation was riddled with loopholes. As taxes were based on the production value or the factory gate price, unscrupulous companies set up marketing firms which bought at low prices and marked them up for resale. This enabled these companies to earn more profits without having to pay additional taxes. The finance department pointed the accusing finger at ABI — which has consistently declared losses since it was established in 1981 — for resorting to this unethical business practice in order to dodge taxation.

During the Ramos administration, the Bureau of Internal Revenue (BIR) sued Tan for not paying P25 billion in excise taxes from 1990 to 1992. The magnate's flagship company, Fortune Tobacco, controls more than 70 percent of the local cigarette market.

"Northern Luzon Alliance's" Muscle-Flexing

In the course of the debate over sin taxes, a small power center flexed its muscle. The Northern Luzon Alliance refused to support the tax reform package for a parochial reason: its constituents, tobacco farmers whose produce was bought by Tan, stood to lose with the new legislation. Tan is the biggest buyer of tobacco in the region; without him, the tobacco industry would collapse. The industry raised P18 million in annual revenues and 51,313 farmers depended on it for their livelihood. Thus, the Northern Luzon legislators — among them Majority Floorleader Rep. Rodolfo Albano (Isabela), Rep. Santiago Respicio (Isabela); Reps. Jose Aspiras and Victor Ortega (La Union), Reps. Eric Singson and Mariano Tajon (Ilocos Sur) and

Reps. Amadeo Perez and Conrado Estrella (Pangasinan) — fought for the retention of the *ad valorem* tax.

In the end, instead of a total shift from the *ad valorem* to specific tax, the House approved a hybrid version. It adopted a "tax comparator" which would enable the government to collect *ad valorem* taxes or specific taxes depending on which would generate more revenues.[28]

Third Reading: *The Final Voting*

Usually, once a bill passes the second reading, its passage in the third reading, where amendments are no longer allowed, is assured.

After the second reading, copies of the bill (reflecting the amendments) are printed by the Plenary Affairs Bureau and distributed to the members of the chamber three days before the third reading. The bill is then included in the calendar of business.

On third reading, the Secretary reads only the number and title of the bill. At this stage, the legislators in plenary simply vote on the bill without further discussions. A roll call vote is called and a member, if he desires, is given three minutes to explain his vote.

The bill is approved by a majority of the members present and if it is disapproved, it is transmitted to the archives.

Transmittal of the Bill to the other Chamber

The approved bill is transmitted to the other chamber where it goes through the same cycle it did in the chamber where it originated.

To speed up the process, it is best that the bill is filed simultaneously in both Houses so it can move in two parallel tracks (the Senate and the House) at the same time. Civil society actors must therefore secure sponsors for the same bill from both the Senate and the House and try to have the measure filed simultaneously in both chambers.

The "Third Chamber": *The Bicameral Conference Committee*

If the bill has been passed in both chambers, a bicameral conference committee composed of representatives from both Houses is created. This is the fifth area for indirect intervention by civil society actors.

The task of this committee is to reconcile the differences or disagreements reflected in the Senate and House versions of the same bill. However, the conferees may also introduce new provisions germane to the subject matter or may report out an entirely new bill on the subject. Due to its vast powers, the bicameral conference committee has been dubbed the Third Chamber.

"Killing" the Health Workers' Bill

Though this is rarely done, the bicameral conference committee may "kill" a bill by simply not sending out its report for approval by both chambers. This is the unfortunate fate that befell the country's health workers who wanted to be reintegrated into the Department of Health.

With the passage of the 1991 Local Government Code, the national government devolved its responsibility over health service delivery to local governments. But the local units were then not prepared to shoulder the fiscal costs of the devolved powers such as payment of the salaries of health workers.

The health workers, whose cause was championed by Senator Freddie Webb, lobbied to have the bill for their reintegration passed in both Houses. Afterward, a bicameral conference committee was convened.

But bowing to the enormous pressures from the executive branch and from the Leagues of Provincial Governors and Mayors, the bicameral committee "killed" the bill by not transmitting its report for approval by the Senate and the House.

Once the conference committee has reached a consensus, a report is prepared. All the members must sign each and every page of this report. Afterward, it is passed on for consideration and approval of both Houses. No amendment is allowed at this stage.

Once both Houses pass the measure, copies of the bill are signed by the Senate president, House Speaker and certified by the Senate secretary and the House secretary-general. Then this is submitted to the President.

Presidential Action on the Bill

The sixth area for intervention by civil society actors is Malacañang where they can urge the President to sign or veto a bill.

If the President approves and signs the measure, it is assigned a "Republic Act" number and is transmitted to the chamber from where it came. If the President decides to disapprove or veto the measure, he sends it back to the chamber of origin with a message citing the reason for the veto.

Congressional Action on Vetoed Bill

The President's message is calendared in the order of business and Congress may decide to override the veto. This is the final area of intervention for civil society actors who may be against a presidential veto. Each chamber separately reconsiders the bill or the vetoed items on the bill. If the bill or vetoed item is passed by a vote of two-thirds of all members of each chamber, it becomes a law.

Action on Approved Bill

The law is reproduced and copies are sent to the Official Gazette Office and distributed to the implementing agencies. It is also included in the Annual Compilation of Acts and Resolutions.

Evidently, the areas of intervention where civil society actors have the strongest impact are at the lower rungs of the legislative ladder. Their impact progressively diminishes as the bill moves up the legislative ladder.

"External Strategy": *Indirect Intervention*

Lobbying the Executive Branch

Even as they work within the official structures and formal mechanisms of Congress, civil society actors must also lobby outside the halls of Congress. This is the "external strategy" — the plan for convincing lawmakers who have a voice in the outcome that their constituents are solidly behind the proposed bill.

Although under the principle of separation of powers, Congress legislates and the executive implements, lobbying the latter will strengthen the hand of civil society actors in affecting legislation. There are various reasons for this.

First, the various departments and agencies of the executive branch are a source of draft bills which they recommend to the President and to Congress through the LEDAC. Civil society actors can suggest areas for legislation which the legal staff of any line department can package into a draft bill. Since even Malacañang must constantly lobby Congress, Malacañang also needs grassroots support to transform ideas into legislative action.

In fact, the line departments are always in search of subject matter for possible legislation because they are required by Malacañang to constantly come up with proposals. The Palace may or may not decide to incorporate these into the legislative agenda that the President usually presents during his annual State of the Nation address.

Second, the heads of all the major line departments are members of the LEDAC which decides on the priority bills of the administration. Their prioritization is in turn harmonized with that of the Senate and the House. If the bill being pushed by civil society actors gains the support of a department secretary, its significance is elevated several notches. This was the case with the generics bill which the health secretary strongly supported.

Third, each line department and all agencies under it has legislative liaison officers in both chambers of Congress who can " walk" civil society actors through the lawmaking process, help them gain access to inside contacts and potential allies, and assist them in shepherding the bill.

Fourth, department secretaries or their duly designated representatives are routinely summoned to testify before congressional committees. As resource persons, their views and official positions carry a lot of weight in the legislature.

Lobbying the Media

"Intervention in the public airwaves should be constant because while the senators and congressmen are legislators, they also listen to the media and are sensitive to public opinion," said Roxas.

Since their support for legislation depends mainly on what their constituents think and say about the measure, members of Congress are attuned to the public pulse. It is therefore important for civil society actors to rev up the engine of public opinion. The primary sources of information of the voting public are the broadsheets, tabloids, radio and TV. The attention of the mass media, both in Manila and the provinces, must be stirred up in order to trigger grassroots support for the issue.

Once a topic becomes a "burning issue," legislators are compelled to listen and act. A legislator may have a measure languishing in the hopper for quite sometime, but when an event related to it heats up, the bill is hastily tabled for discussion. Or, an issue gets hot in the media, and legislators take advantage of the timing by scheduling a related bill or initiating congressional investigation purportedly in aid of legislation.

For example, a barrage of news reports on massacres, rapes, kidnappings and other crimes catalyzed the passage of the bill classifying certain acts as heinous crimes punishable by death. Public opinion in favor of the bill was strong, despite the opposition of the Catholic Church to the death penalty.

Because fostering good media relations is part and parcel of effective legislative lobbying, civil society actors must learn how to deal with the press. To start with, they must know and gain the support of reporters who pound the congressional beat, the opinion-makers, and the columnists who are always looking for newsworthy issues to tackle.

Placing ads in the newspapers or plugs on radio or TV, writing letters to the editor, submitting opinion pieces, making statements on the radio or TV — in other words trying to get media mileage — are things which civil society actors must learn to be skilled at. Except for ad placements, getting into the media does not cost much money.

Participation in committee hearings such as submitting position papers or making testimonies is not sufficient. The multiplier effect of issuing corresponding press releases and holding press conferences in the media centers of the Senate or the House is incalculable.

The media provide the most credible and fastest transmission lines to send a message across to the widest audience, including the legislators themselves. By injecting an issue into the mainstream of public consciousness, lobbyists are more likely to elicit congressional attention.

Lobbying the Legislators' Constituents

Legislators are political animals who are voted into and out of office. They therefore have to respond to, or at least are seen as, responsive to their constituents.

To convince legislators that a proposal or stance is the best for the "collective good," it must be shown that voters across the nation — or in the case of a congressman, voters in his district — rally behind a cause and are willing to be counted.

A cause that is emotionally charged and has stirred up the general population is ripe for mass mobilization. Thus, to draw attention to their cause, some NGOs and POs usually launch signature campaigns and hold rallies and demonstrations where manifestos are distributed.

A letter campaign or a phone brigade in which individuals write letters to or call up legislators to make known their position can be potent means of showing that an issue has wide and solid support.

Real letters and phone calls made by real people are more persuasive than paid ads. Knocking on congressional offices collectively and individually also helps trumpet a cause.

Projecting Issues

Some observers say that senators who are elected at large are more attuned to national issues than their counterparts in the Lower House who tend to be more concerned with parochial district issues.

With creativity, however, a district issue can be projected as a national issue, and a national issue can be brought to a district's attention. If there is an issue which affects all or most districts, it is easy to raise its nationwide visibility.

From District to National Issue: *Irrigation Crisis Act*

For instance, the lack of irrigation facilities has been the complaint of individual districts for decades. When a rice crisis hit the country in 1995, the LEDAC asked the concerned department and agencies to explain. The House Special Committee on Food Security also prepared its own report. Both showed that most agricultural districts were plagued by the lack of irrigation facilities. Instead of separately wrangling for "pork-barrel" allocations for their respective districts, the House decided to make this concern a national priority. This led to the drafting of an omnibus bill called the Irrigation Crisis Act which has been certified as urgent by the Ramos administration.

The "Bote-Garapa" Bill

An example of lesser importance was the so-called "bote-garapa" bill filed by then Rep. Pablo Ocampo. The bill prohibited the recycling and use of empty liquor bottles for sauces such as fish sauce and soy sauce which are later sold in the market. Ocampo filed this bill to save costs for Tanduay Distillery which produces its own bottles but is unable to reuse them because scrap dealers sell them to sauce manufacturers. Tanduay Distillery is located in Ocampo's district.

Rep. Teresa Aquino-Oreta, who represents the fish sauce-manufacturing district of Malabon and Navotas, opposed the bill by arguing that the scrap dealers are simply trying to earn a decent living. She successfully convinced her colleagues to support her by evoking sympathy for the scrap dealers in every district whose livelihood would be jeopardized should Ocampo's bill be enacted into law. Aquino was even able to marshal the support of the opposition and the members of the Committee on Rules. Thus, while the bill was tabled for discussion in plenary, it was not deliberated on.

A national issue can likewise be transformed into a district issue by raising the awareness of the legislator's constituents and mobilizing their active participation. Every member of Congress knows that constituent service lies at the core of political staying power. He sees and judges legislative proposals in terms of how they resonate in his backyard.

Lobbyists should therefore be able to rattle off to a lawmaker the names of "local influentials" from his home base who are backing a proposed measure. The support of the local parish priests, members of the academic community, officials of civic and professional organizations, and leading members of the business sector should be tapped. Their appeal for the legislator's support will more likely be listened to than if such appeal comes from those who do not even reside in his district. There is nothing more effective than enlisting a key person from the congressman's bailiwick to help in the lobby, especially if that person knows whereof

he speaks and has a stake in the issues being espoused. A constituent is always the best lobbyist.

Every congressman has district officers who act as the communication link between the former and his constituents during session days in the Lower House. The senators, on the other hand, have political officers in charge of their regional bailiwicks and other regions of the country. Civil society actors must therefore also touch base with these key staffers.

Utilizing Areas of Intervention

Though this is not conclusive, based on interviews with some legislators and congressional staffers and the seven-year work experience of this writer in Congress, it seems that the least utilized areas of intervention are those available within the formal structures of Congress.

Thus far, only the business sector and some women's and labor groups have shown aggressiveness in using the formal and direct areas of intervention.

The participation of the members of academe, NGOs and POs has been mainly to serve as resource persons on issues. Their initiatives in legislation are hardly seen or felt. Usually, they present position papers on matters they want to react to either by mailing them to the legislators' offices or by attending public hearings. It is rare to hear of an NGO, PO or an academic present a draft bill, for instance, for sponsorship by a member of Congress.

On the other hand, Church representatives, probably in observance of the principle of the separation of Church and State, usually discuss issues with the official hierarchy through private meetings but not in open public hearings. Or else, the bishops issue pastoral letters and media statements. When the Magna Carta for Students was being discussed in Congress, the Church sector opposed the bill primarily through its lay organizations.

The business sector has been the most active in proposing legislation and in congressional lobbying. In fact, this sector has its own "horses" and mouthpieces in both the House and in the Senate. It is known that the election campaigns of many legislators were partially bankrolled by the business sector. The Makati Business Club, the Philippine Chamber of Commerce and Industry and PHILExport, to name a few, have their own lobbyists, congressional monitoring teams and policy advocacy groups. Compared to other civil society actors, the business sector tends to be most active at the committee level. They know that the deliberations on the text of a bill comprise the first front in the legislative war. Their liaison officers also touch base and personally meet with members of the committee secretariat and participate actively in the meetings of the technical working groups.

A part of the labor sector such as the Trade Union Congress of the Philippines has also been active in the legislative arena and is in fact represented in it by Senator Ernesto Herrera and the sectoral representatives in the House.

There are several factors that could account for the under-utilization of the formal areas of intervention by some NGOs and POs.

"Resistance Paradigm"

First, the most politically active segments of the Church, academe, the student sector, the NGOs and POs are still in the "parliament of the street" mode, or as Prof. Rene Velasco put it, they still subscribe to the "resistance paradigm."[29] That is why their most commonly used methods are also those associated with the "parliament of the streets" such as holding mass actions, sloganeering and issuing manifestos full of protest rhetoric.[30]

They also rely mainly on the media for information on what is happening in Congress. However, the media, more often than not, only report on the controversial and the sensational or on bills that have been passed on second and third reading. The media's attention span on issues could also be short. The dependence on media reports means that when civil society organizations act, it is usually too late to influence the legislative process.

An example is the CTRP which took two years of drafting by the Presidential Task Force on Tax Reform. It was only when it was being discussed in committee hearings did the NGOs and POs protest. If they had intervened earlier, they could have preempted the measure.

This mode of action seems to be a throwback to the martial-law regime when Marcos issued decrees, letters of instructions and executive orders and civil society reacted by exposing and opposing them, Velasco explained.

For as long as civil society actors depend mainly on indirect channels of information and on indirect methods of intervention, they will continue to play a relatively weak role in shaping the legislative agenda.

Lack of Understanding

The second factor that makes civil society actors ineffective in the legislative arena is their lack of understanding of the processes and dynamics of Congress. Most of them are unaware of how a bill becomes a law, and of the players involved in the process. Owing to this, they have not availed themselves of, and optimized, the official avenues available to them for effective intervention.

Impatience with the Legislative Process

The third factor is impatience with the legislative process. There are so many bills and just not enough time. In the Lower House alone, from July 1995 to June 1996, 7,402 bills, 692 resolutions, 23 House concurrent resolutions and 10 joint resolutions were filed. Of this staggering number, only 20 bills have been passed into law. The legislative mill grinds slowly. It entails patience, vigilance and aggressiveness to push for a bill.

It is a rule in Congress that a bill which was not passed during a congressional term has to be filed again in the next Congress by a legislator who is interested in pursuing it. The anti-rape bill had been filed during the Eighth Congress and refiled twice (during the Ninth and Tenth Congress). Only recently did it pass the Senate and the House on third reading.

Rep. Erasmo Damasing who had opposed it during the Ninth Congress made a 360-degree turn and batted for it when the climate of public opinion shifted in the bill's favor.

Cliché as it may seem, there is wisdom in the saying that it is better to have tried and lost than never to have tried at all. To begin with, intervening in the legislative arena at least ensures that the issue was brought to the public's attention. Moreover, losing the first bout does not really amount to total defeat. Since the issue divided Congress into the pros, cons and the undecided, future lobbying targets become clearly identifiable. This allows lobbyists to fine-tune their strategy as they prepare for a second attempt to have the measure passed.

Unwillingness to Arrive at a Consensus

The fourth factor is the unwillingness of some civil society actors to accept that legislation is the politics of consensus. Instead, they think that their role is to impress on the members that their position is the only right position.

Senator Gloria Macapagal-Arroyo said that the anti-GATT lobby was a dismal failure because some its major proponents "were not dialoguing but were conducting monologues instead."[21] She added that "even if the other side (pro-GATT) already addressed their concerns during a hearing, in the next round, they still raised the same wrong 'facts' that they based their previous arguments on." She decried that she was even a victim of name-calling and a recipient of threats of political reprisal because of her pro-GATT position.

Rep. Mike Defensor also expressed his frustration at some NGOs: "I hope they try to understand the difficulties of those who helped them instead of blaming us just because we were not able to deliver everything that they wanted."

He pointed to the "sorry experience" of Rep. Wigberto Tañada who authored the Campus Journalism Act to ensure press freedom and encourage the development of campus journalism in the country. Tañada ended up being lambasted by some student groups who claimed that the law had some loopholes.

"Civil society actors must realize that at the very least they should try to persuade the unconvinced, even if they do not get the vote," said Sebastian. He added, "Getting the support of the solons does not cost money; all it takes is half a brain and a willingness to dialogue."

"Smiling Protagonists": *Liberalization of the Banking Sector*

Sen. Macapagal-Arroyo pointed to the law liberalizing the banking industry as an excellent example "where the protagonists were both smiling when the law was passed because they were realistic enough to compromise."

The country's domestic banks, represented by the Bankers' Association of the Philippines (BAP) were in favor of allowing foreign banks to come into the country on these conditions: first, their capital requirements must be the same as that of the domestic banks; and second, they can only open a limited number of branches in the country. The foreign banks argued that the capital requirements for them should not be as high as the domestic banks' since they have an international network to back them up. They also did not want too much of their capital to be tied-up here. The foreign banks also refused to limit the number of branches they would be allowed to set up.

The compromise arrived at was not in terms of capital requirements. Instead, it allowed foreign banks to enter into joint-venture agreements with local banks.

Domestic banks accepted this because having a foreign partner would strengthen their position. But the law also limited the number of branches that a foreign bank can open. This was a far cry from the BSP's original position to allow the full liberalization of the banking industry.

Since the BAP and the BSP had a continuing dialogue despite initial differences, their ideas and concerns came to the fore and both parties arrived at mutually acceptable compromises.

Macapagal-Arroyo thus advised civil society actors: "Although a bill may be perfect from one's point of view, it is better to have an imperfect bill that gets passed instead of a politically unacceptable one."

Lack of Confidence in the Institution

The fifth factor is the lack of confidence in Congress as an institution. It is often heard that Congress is run mostly by elites with vested interests to protect and promote. It cannot therefore be expected to be responsive to the will of civil society or to legislate for the "collective good". Some sectors therefore feel alienated from Congress. At the same time, they also have a defeatist attitude that nothing worthwhile will ever come out of being involved in legislative advocacy ("*wala ring mangyayari*").

Changing Face of Congress

But for all its imperfections, the legislature has exhibited a remarkable capacity to survive under the most trying conditions in a transitional democracy that was weighed down by coup attempts, a festering communist insurgency, debt problems, and an unprecedented spate of natural calamities.

The three congressional elections in 1987, 1992 and 1995, said Velasco, also "suggest the relative strength of democratic politics which is nurtured by the established process of acquiring and maintaining a legislative mandate."

He also pointed out that the outcome of those elections challenges the argument of a "changeless oligarchic hegemony" in Congress. A study made by Eric Gutierrez for the Institute for Popular Democracy[33] showed that while 169 members of the Lower House in 1987 belonged to oligarchic families, there were only 145 such members in 1992. In 1995, only two (Juan Ponce Enrile and Sergio Osmeña III) of 12 newly elected senators were members of the traditional elite. Velasco noted that at least 30 percent of the present crop of legislators are young, middle-class professionals, bureaucrats and entrepreneurs who reduced the political role of landed elite that recaptured State power in 1986. Moreover, a number of incumbent legislators are not members of the elite yet managed to defeat candidates from political clans.

Surveys of the Social Weather Stations (SWS) also indicate that the public's approval rating for the legislature has been positive, averaging around 20 per cent from 1987 to 1995.

NGOs and POs who wish to make a positive difference in national policy-making should therefore note that the majority of Filipino voters have not lost their confidence in the legislature. They must get involved in the legislative process if they do not want to be pushed farther back to the political fringes or find themselves isolated.

Cycle of Mass Actions

Among NGOs and POs, the most utilized mechanism to intervene in Congress is the indirect area of intervention, particularly mass actions. But, as the experience of some NGOs and POs has shown, these are not necessarily always the most effective. Nonetheless, the knee-jerk response of most groups to issues that they are against is to stage demonstrations and street marches.

The experience of the "parliament of the streets" has shown that these methods are effective only under the following conditions. First, when a broad cross-section of the population is sufficiently agitated so that they shift from being apathetic fence-sitters to active partisans; second, when a large number of citizens are willing to make the necessary sacrifices to sustain mass protest for a decisive period of time; and third, when most of the mass media are on the side of the protesters. When these three elements are present, an issue assumes paramount political importance. A politician ignores the agitation only at his own peril, for inaction is tantamount to political suicide. These three elements were present in the 1995 execution of Filipina maid Flor Contemplacion, which generated widespread protest and forced Malacañang and Congress to rush the Magna Carta for the Protection of Overseas Filipino Workers, which politicians saw as a life-saver in the raging sea of political unrest.

Without these conditions, mass actions soon ebb without achieving concrete results. A period of relative quiet takes over until another mass action is launched on still another issue, and the cycle repeats itself. Civil society actors should therefore reassess their methods and study when mass actions yield positive results and when they do not. They should be more creative, experimenting with new and untried modes of action.

Successes for the Marginalized

Indeed, it can be said that Congress reflects the vested interests in the society at large. It can even be posited that the degree of influence of civil society actors in the legislature reflects the extent of their influence and clout within society itself.

In democratic theory, Congress is an institution that aggregates the competing interests within a society. Because they represent some of these interests, civil society actors should also be heard in Congress. In fact, some marginalized sectors have already scored some successes and have defeated entrenched interests in the legislative arena.

For example, the enactment into law of the Urban Development and Housing Act of 1992 has been criticized by some sectors as favoring squatters and for abetting squatting, but it was the result of intense lobbying by urban poor groups. The Generics Act was vehemently opposed by drug companies, and the Consumers Protection Act, by manufacturers.

The Urban Poor's Legislative Battle

The Urban Development and Housing Act of 1992 was authored by Senator Jose Lina and Rep. Consuelo Puyat-Reyes. Arnaldo believes that a major factor for the law's passage was that nobody had thought that somebody of Reyes's "class origin" and socio-economic status would bat for a law that would favor the urban

landless and homeless. But at the same time, Arnaldo recalled the massive mobilization of urban poor groups who sat it out in the gallery during the long series of plenary sessions in Congress. The Urban Development and Housing Act of 1992 took five years of deliberations before it was passed.

The Campaign for Generics

The Generics Act championed by Senator Orlando Mercado was also a victory for civil society. The law was opposed by drug manufacturers and the equally powerful Philippine Medical Association (PMA) which persistently tried to water down its provisions. When they failed to influence Congress, they filed a suit questioning the law's legality before the Supreme Court. Mercado narrated that those who opposed the bill also used their clout as media advertisers so successfully that the pro-generics campaign had difficulty getting media support.[34] In addition, Senators and the congressmen were being influenced by their own family doctors who were against the Generics Act.

Mercado, however, had the support of NGOs like the Medical Action Group (MAG), the Alliance of Concerned Health Workers and other organizations from the medical profession. They presented a good case and found a formidable ally in the health secretary. These allies, in turn, tapped the support of their friends in the media and made public statements to rally support for the law.

As Mercado recalled: "Because these civil society actors actively and unwaveringly participated in this campaign, they learned how a bill goes through the (legislative) mill, they learned how to use the committee hearings to articulate their views, and their expectations became realistic. We weathered the storm despite the odds. But while it has become a law, implementation is quite another matter so we are still closely monitoring it. The resistance against it has not subsided because the drug manufacturers are still attempting to have it repealed, watered down or amended."

Mercado added that with the help of the experience they had gained in pushing for the Generics Act, these groups later mobilized their resources to help him win two other measures — the Consumers Protection Act and the Magna Carta for Disabled Persons. In fact, some of the concerns which surfaced during the deliberations on the Generics Act were addressed under the Consumers Protection Act such as the issue of counterfeit drugs and false labeling of drugs.

Pushing for a Logging Ban

Mercado, however, lamented the failure of civil society organizations in having a logging ban passed by Congress. He said that while environmental groups are just as committed as health workers, "they started on the wrong foot" by arguing with the senators instead of persuading them. These antagonized potential allies who were turned off by the "self-righteous lecturers and hecklers." Later on, heeding Mercado's advice to be diplomatic and civil, they succeeded in raising the level of public debate on the issue.

But anti-logging activists were fighting not only loggers and wood manufacturers, they were also up against influential members of the House of Representatives, some of whom operated timber concessions.

Since Mercado's camp was aware that the logging ban had a slim chance of making it through the House, they thought that they could at least gain media mileage from attacking the pro-logging legislators. Green NGOs gave out awards like the "Kalabasa award" and the "Logger's Award." But this did not deter opposition to the bill, which was led by Quezon City Rep. Renato Yap, head of the House environment and natural resources committee. The Green campaign did not worry Yap. His constituents, he said, were not directly affected by the debate as "*wala namang gubat sa Quezon City* (there are no forests in Quezon City.)"

Still, the anti-logging groups persisted. Mercado worked with organizations like the Green Coalition, Sanlakas, and the Apo Hiking Society which campaigned against Yap's re-election. Yap was not threatened. He reportedly remarked: "*Hindi ninyo ako matatalo, mapapagastos niyo lang ako* (You cannot beat me, you'll just compel me to spend more.)"

Mercado, meanwhile used his popular daily radio program to take digs at Yap. He cracked jokes at the latter's expense. *"Ano ang tawag sa logger sa Singapore?* (What is a logger called in Singapore?)" Answer: Ato Yap. The Apo Hiking Society also delivered similar jabs at Yap in their noontime TV show. In the end, Yap lost to his former aide Rey Calalay, a former janitor in the House of Representatives who became Quezon City councilor. Calalay soundly thrashed his former boss and now represents the first district of Quezon City.

Thus, although they failed to have the logging ban bill passed, civil society groups succeeded in dislodging from power one of the bill's most vociferous opponents in the House. Mercado looks back at the whole debate as a learning experience. He hasn't given up yet. As the new chairman of the Senate Committee on Environment and Natural Resources, Mercado wields more clout now. He also replaced Senator Heherson Alvarez, who opposed the logging ban, as committee chairman. Mercado hopes to use the logging ban bill in bargaining with the House, which badly wants the Irrigation Crisis Act passed. He is planning to trade his support for the irrigation bill in exchange for support for a total logging ban.

Strengths and Weaknesses

Sources of Strength

The strengths and weaknesses of civil society actors determine how much impact they can make on legislation. The strength of these actors lie in the following: organization, grassroots membership, credibility, resources, unity, willingness to compromise and flexibility.

Organizational Machinery

Organization provides civil society actors the muscle with which to directly and indirectly put pressure on the legislative process. Strong, efficient organizations make possible successful information, lobbying and constituency-building campaigns. Groups which can boast of a nationwide organization can deploy action officers at the district and provincial levels. Such groups can put pressure not only in Metro Manila, but can coordinate their lobbying-related efforts in various

parts of the country. They can replicate campaigns in districts where they have members.

The greater they are in number, the stronger their capacity to influence legislation. After all, legislators believe in the "politics of addition."

"Command Votes"

Organized groups which are reputed to have the capacity to deliver "command votes" or which practice block-voting automatically have the legislators' ears because they are a voting force to reckon with. The most notable are religious groups like the Iglesia ni Kristo and the El Shaddai, which politicians ignore only if they want to put their political careers at risk. Every election season, candidates go on a pilgrimage to ask for the blessings of the leaders who can command the votes of these blocs.

There is no Catholic vote, although the campaign waged by the Catholic Church and its lay organizations against Senator Juan Flavier in 1995 seems to have cost him a number of votes. When he was health secretary, Flavier had incurred the ire of the Catholic hierarchy by vigorously promoting family planning.

Grassroots Membership

A grassroots membership is a big advantage, and not only because it gives organizations the numbers they need for successful lobbying. Grassroots support also provides civil society actors constant feedback which they need if they are to formulate legislative proposals that are responsive to the people's needs. These can then be passed on to Congress for appropriate action.

Resource Advantage

Needless to say, having resources is a major asset. Any lobbying campaign entails logistical requirements such as mobilization of members, information drives, communication and equipment expenditures. With a loaded "war chest," groups can put up their own congressional lobbying office, hire full-time research and legal staffers, liaison officers and media/PR experts. They can even invest in the campaign kitties of congressional candidates, who will ensure that the favor is returned in terms of a favorable legislative action.

More often than not, those who make sizeable contributions can count on the support of their legislators. This is the major strength of the business sector. That is why legislative battles impinging on big corporate interests are bound to be ferocious, as in the case of the bruising battle between Lucio Tan and Andres Soriano over proposed tax laws.

Strength in Unity

Unity is a source of strength because Congress responds to "one voice." Legislators will not want to be dragged into internecine battles. For as long as they can duck it, they will never risk taking any action that will gain for them a block of votes but make them lose another.

Pro-GATT and Anti-GATT Tactical Alliance. Rep. Leonardo Montemayor, peasant sector representative beamed with pride as he narrated how the pro-GATT and the anti-GATT camps set aside their differences to be able to put up a united front for the reduction of tariffs on agricultural products.[35] The organizational expression of that unity was the Agribusiness Coalition composed of peasant groups, agribusiness executives, commodity producers and some members of academe.

The government's tariff restructuring program lower tariffs to zero to five percent by the end of the year 2003. Under the law, the President is allowed to adjust tariffs, but only if these do not exceed ten percent. The coalition pushed for lower tariffs, arguing that some of the industrial products which are being taxed are also used in agricultural production (e.g. fertilizers, fishing nets, refrigerated vans, machinery and packaging materials, etc.).

However, some representatives of the petrochemical industry, specifically Petron chairman Raul Manglapus and an industry leader, Jose Concepcion, lobbied against tariff reductions. Manglapus wanted to attract foreign investors to the local petrochemical industry and asked for a 20 percent tariff on industrial products as an incentive. Concepcion, whose family is engaged in refrigerator manufacturing, wanted to protect his business by keeping tariffs on imported goods high.

The Agribusiness Coalition was created as a counter-lobby against these interests. Rep. Montemayor delivered a privilege speech on the ill effects of the tariff hike and filed a resolution against it. The coalition also sent memos on their position to selected Cabinet members and to the members of farmers' and agribusiness communities. The counter-lobby was a success. Less than a month after the coalition's formation, President Ramos signed Executive Order No. 264 setting the tariff at ten percent.

Consensus-Building: Peasant Caucus. But Montemayor believes that much more remains to be done to alleviate the plight of farmers, who are a neglected sector even if they comprise the majority of the Filipinos. He attributed this to the fact that the peasantry is disunited. In an effort to forge unity, 11 people's organizations involved in peasant issues, nine NGOs and two representatives from government entities put up the Philippine National Peasant Caucus. Montemayor describes the caucus as "a forum for the deliberation and exchange of ideas" that will help the various groups arrive at a common decision and course of action. "The caucus does not envision the dissolution of the distinct personalities of each organization," he stressed, but to come up with a consensus on the issues.

The Credibility Factor

Another source of strength is credibility, which a group earns through its own efforts. The most successful organizations are those which are credible, and whose leaders and spokespersons have attained a reputation for credibility. Such a reputation is developed by making claims that withstand verification, either in terms of the nature and composition of the organization or the facts that it presents when it takes a stand.

PRA's Diminished Credibility. The Philippine Retailers Association (PRA) failed to establish its credibility in separate meetings with Senator Sergio Osmeña

III, chair of the Senate Trade and Industry Committee and Rep. Roxas, the vice-chair of the counterpart committee in the House.

The PRA opposed a law that will liberalize retail trade, arguing that this will force the majority of Filipino retailers to close shop in the face of stiff competition from foreign retailers. The PRA, however, was unable to produce figures to substantiate its argument.

Osmeña, for one, pointed out that the bill limits foreign participation to those who can invest at least P10 million, a provision designed to protect small and medium-sized Filipino retailers. Citing business statistics, the senator said that local retailers capitalized at over P10 million constitute a measly .0004 percent of the estimated 418,000 local retailers.

Osmeña pointed out that "those opposing the retail trade bill are actually the Magnificent Nine or the nine biggest retailers in the country who can face foreign competition but are against the bill because they want to maintain their oligopoly at the expense of the Filipino consumers."[36]

He further disclosed that PRA representatives, who were mainly medium-sized retailers, had said in an earlier meeting with him that they were amenable to a compromise on the bill. But when these negotiators reported back to the PRA board, the compromise was rejected. It turned out that the medium-sized retailers were beholden to the big retailers who own the biggest shopping malls in which smaller retailers leased their shops.[37]

Roxas had a similar experience when he met with the PRA. When he inquired how many small and medium-sized retailers had closed shop in Cebu and how many lost their jobs when ShoeMart put up a branch there, the organization's officers were stumped. Some of them even revealed that they deliberately declared a low capitalization to avoid paying higher taxes.[38] Obviously, any legislator would not want to defend a position by citing false tax declarations.

Compromise and Flexibility

Another source of strength is an organization's ability to be flexible in accepting compromises as well as adopting methods and strategies. Women's groups displayed such flexibility during the debate on the anti-rape bill. These groups were dissatisfied with the way the House committee had removed some of the provisions they wanted to be included in the bill. But they decided not to prolong the committee deliberations when it was explained to them that the bill would move faster if it were taken out of the committee and debated in the plenary sessions. The other provisions were then reintroduced during the plenary debates.[39] That way, the bill more quickly hurdled the Third Reading in both the Senate and the House. Had the women's groups not heeded the dictum "one step backward, two steps forward," they would have lost.

Sources of Weakness

The weaknesses of civil society actors can be traced to the lack or absence of the sources of strength cited above.

Huge Reserve of Unorganized Citizens

It has been estimated that there are at least 18,000 NGOs and POs in the country. Still, millions of Filipinos remain unorganized and unreached by these groups. There are, for example, 10 to 12 million farmers, but only two to three million of them are formally organized, said Montemayor. Similarly, women voters number some 15 million, more than half of the country's total voters, but only a small percentage of them are organized around gender-related issues. Such is the case for most other social sectors.

No Machines for Vote Delivery

Even the most well-organized groups are not considered politically significant by legislators because they have thus far not demonstrated an ability to deliver votes or to vote as a block. For instance, while there are many women's, youth, student, labor, farmers and environmental groups, there is as yet no women's vote, a youth vote or a Green vote. Such is not the case in many Western countries where political parties like Germany's Green Party have taken on issues which are considered NGO issues in the Philippines.

Disunity and Fractiousness

Another factor that weakens the potency of civil society actors is internal divisiveness. Such fractiousness saps the energies of groups and deflects their attention from the cause they should be fighting.

Student Divisions. Fractiousness is evident in the student sector, which has been divided in its lobbying for a Magna Carta for Students, which has been pending since the Eighth Congress. Student groups disagree on whether they should compromise with what they see is a weaker version of the bill. They are also divided on what methods of advocacy should be used. "Unless the student sector gets its act together, the bill will remain stalled in the committee," said Rep. Michael Defensor.

NGOs' Split Over CTRP. NGOs were also split over the CTRP. The ANTI (Against New Tax Increases) Tax Movement denounced it for being "anti-people and anti-poor, pro-business and pro-rich, anti-environment, anti-labor and counter-productive and deceitful." Other NGO leaders, however, even while hitting the tax package as "moderate," also commended it as a "springboard to attack the long-standing problems in the internal revenue system" and for "mitigating some of the regressive features through tax relief for fixed, income earners."

Credibility and Image Problems

An organization may have a nationwide machinery and grassroots membership, but if it does not have credibility, it cannot do much in terms of legislative advocacy. Legislators find suspicious those organizations which, rightly or wrongly, are seen as having a hidden ideological agenda. Congressmen are wary when the representatives of these groups attend congressional hearings because they suspect that these groups are there merely to get propaganda mileage rather than to help craft legislation.

A classic example is Bayan. Although its commitment to work for societal change has been historically tested, Bayan was most effective during the martial law period when the struggle was on the streets and no one bothered to lobby a rubber-stamp parliament. While it is not a spent force, Bayan's political influence seems to have diminished with the restoration of democratic institutions. Macapagal-Arroyo commented: "Most legislators are political moderates and the moment they are presented with arguments seen as ideologically colored, they shut themselves off mentally."

This perception of ideological motivation curtails the ability of civil society actors to win friends and supporters in Congress. Many times, ideological groups come unprepared for congressional hearings, so they do not even get the propaganda benefits that they want. In addition, they often take an impatient and militant stance, even when what is needed is to counter adverse positions through patient reasoning. As Roxas said: "If your support has not expanded beyond the circle of the 'like-minded', then you have not gained new converts. It is not only the singer we want to hear but also the song."

Organizations which are saddled with credibility and image problems find it very difficult to influence legislative outcomes using the formal areas of intervention. It can of course be said that their refusal to avail themselves of these institutional mechanisms reflects their own negative image of Congress. But such refusal will not make the legislative mill grind to a halt — at least not until a critical mass of civil society shares this negative perception of the legislature to the extent that they will resort to extra-parliamentary means to realize their goals.

An example of ineffective protest was the one launched by the Bukluran ng Manggagawang Pilipino (BMP), a labor federation led by former communist Filemon Lagman. The BMP had argued that since labor's demand for a legislated wage hike has a slim chance of being passed in Congress, the next best thing workers should demand was the scrapping of mandatory wage deductions (i.e. for GSIS, SSS, Pag-ibig, MEDICARE and other payments). This way, the workers' take-home pay would be bigger. In a rally they staged to dramatize their demand, BMP members tore their residence certificates as a sign of protest. The protest passed largely unheeded, partly because of BMP's image as a troublemaker.

Ill-Defined Issues

Championing ill-defined issues is a drawback in waging legislative battles. The campaign for a cap on foreign debt payments, for example, has been muddled by too many slogans like "US imperialism." Legislators get impatient with these slogans: After all, "US imperialism" cannot be resolved in the halls of Congress. It will be hard to draw members of Congress into acrimonious debates peppered with sweeping slogans.

Complacency and Passivity

Even well-organized and well-funded groups can fritter away their strength if they are complacent. Sometimes they think that submitting position papers or filing a bill is sufficient, so they do not bother with following their proposals through.

For example, the Philippine Nurses Association (PNA) asked for a bill on the integration of the nursing profession. Only a few days after the bill was filed, the PNA representative asked when it was going to be passed, demonstrating an ignorance not only of the legislative process but also of the need to lobby for proposed legislation.

Lack of a Comprehensive Legislative Agenda

Another weakness is the absence of a comprehensive legislative agenda. Instead, groups do their legislative advocacy in a seasonal and ritualistic manner. Thus, around Labor Day in May, labor groups are expected to press for a wage increase. In June, when classes are about to start, student groups are expected to protest against tuition fee increases. In September, it is the women's groups' turn to draw attention to their own sectoral concerns. And in December, as Human Rights Day approaches, human rights advocates take their turn in Congress. Engagement in law making and advocacy, however, should be a year-round effort.

Making up for a Lack of Resources

Many civil society actors are hobbled by a lack of resources. In contrast, the business sector, for example, has ample resources for its lobbying efforts. But resource deficiency can be offset by networking and the pooling of money and manpower. Moreover, if the business sector has money, civil society groups have the numbers. The marginalized, the resource-deficient and the under-represented may not be able to play the money game, but they are sure winners in the numbers game. Groups which do painstaking organizational work and have a valid cause around which to rally people can have the voters on their side.

In fact, if organizations are coalesced into powerful voting blocs, they can even get financial support from the legislators. Some member of Congress have channeled portions of their Countrywide Development Fund (CDF) and Congressional Initiative Allocations (CIA) to legitimate NGOs and POs. Foreign funding agencies and foreign governments have also redirected most of their funding grants from governments to NGOs.

Lessons From Past Legislative Campaigns

The past two Congresses have provided civil society actors with a deep reservoir of experiences from which to draw useful insights and lessons. The examples cited above show both positive and negative experiences. From these, some lessons can be drawn, among them:

First, civil society actors must know and exercise their Constitutional and legal rights to engage directly in the task of law making and in lobbying the legislature. The power of initiative and referendum that allows them to propose, enact or approve, or reject any act or law or part of it passed by Congress or any local legislative body. Any organized party, organization or coalition can also participate in the party-list system and thus earn the right to be represented in Congress. It is also their right to have access to public documents and records of Congress as well as to participate and to be heard in public hearings.

Second, to achieve the desired legislative results, civil society actors must apply both the "internal strategy" as well as the "external strategy" in their lobbying campaigns.

The "internal strategy" entails knowing the power grid in Congress, what motivates the people behind it and the workings of the legislative mill. It means adeptly using the formal areas of intervention (whether direct or indirect) in all steps of the congressional decision-making process. Access is important and civil society organizations must develop the ability to gain it.

This strategy involves networking and building alliances with legislators and the key staffers who shape the legislative agenda. It requires systematically preparing for legislative battles through research. During congressional deliberations, groups must be able to persuasively present their case and to counter arguments with solid evidence. Issues must be well defined. Civility, tact and diplomacy — not strong-arm tactics — win friends and supporters in the legislature.

The areas of intervention where civil society actors can have the strongest impact are at the lower rungs of the legislative or the first stages of the legislative process. Impact progressively diminishes as the bill moves up the legislative ladder.

The "internal strategy" must be in tandem with the "external strategy." This means building a constituency outside Congress. It means lobbying the executive branch and winning the support of the media and the legislators' constituents.

While the Constitution provides for the separation of powers among the three branches of government, the executive branch, through the LEDAC is now a key actor n deciding on national legislative priorities. The executive also lobbies Congress and needs the support of civil society actors as a counterweight to the legislature. The executive can be a partner in pushing for a legislative agenda. It can also provide the assistance of its legal staff and legislative liaison officers.

Getting the support of the media is crucial. The mass media are the fastest and most efficient conveyor of a cause to the general public that includes legislators who listen, and are sensitive, to public opinion. Media attention and sympathy is also likely to generate congressional attention.

Since legislators are voted into or out of office, lobbying their constituents is also necessary. Groups will know when they have succeeded in this effort once a legislator's constituents call the attention of their congressman or senator. As a rule, legislators respond more easily to their constituents than to outside lobbyists.

Third, civil society actors should remember that legislation involves the politics of consensus. This means that the legislative process entails a great deal of flexibility, patience and diplomacy. Since the legislative mill grinds slowly, they should also brace for a protracted campaign and remember that each setback gives them the opportunity to fine-tune their strategy.

Fourth, civil society actors must get their act together and speak with one voice. Divisiveness diverts congressional attention away from the issue they are campaigning for.

Fifth, Congress recognizes organized voting power. Ultimately, the key is to ensure that voters make wise choices during elections, booting out of power those

who represent narrow vested interests while installing those who really represent the interests of the majority. The nature and composition of the legislature is, after all, civil society's own creation.

Proposed Action Agenda for Civil Society

Without doubt, civil society actors can still maximize existing venues for intervention and explore new avenues for legislative advocacy. The following action agenda is recommended:

First: NGOs and POs can network and form a common congressional lobbying team which may be called the Public Citizens' Congressional Lobby. By pooling their resources, their efforts will be more cost-efficient. Each NGO or PO which has a legislative item to pursue or position to advocate would after all have to lobby the same set of congressional players.

Each group interested in legislative lobbying can assign a member of its staff to the effort. Those assigned can then be grouped together to undertake these basic tasks: liaisoning, legal research and bill drafting and media work.

While individual organizations may not have the capacity to put up a working structure to match that of Congress', they can, as a group share staff and resources.

Second: NGOs and POs must conduct an asset inventory. This involves (1) identifying present members who have or can have access to legislators, key congressional staffers, members of the executive branch and the media; and (2) classifying members according to congressional districts and according to regional/provincial bailiwicks of senators.

Based on this baseline data, they should come up with a networking plan to establish contacts with targeted legislators. Action officers for each legislator should then be designated.

Groups which have specific issues to propose or advocate can limit their efforts to key actors who will have a direct hand in the issue's deliberation (i.e. members of a specific House and Senate committee, the pertinent department of the executive branch and, in the case of the media, reporters who cover the congressional beat and selected opinion-makers.)

Third: Civil society actors can send out questionnaires to the 265 legislators to sound off their views and elicit their suggestions on specific legislative proposals. Through this, they can have some idea as to who are likely to support or oppose the measure, as well as who are undecided on the matter. Such a survey can help paint a picture of the likely voting configuration and guide lobbyists to where they should direct their efforts. By soliciting the legislators' opinions, lobbyists can identify which aspects of the legislative proposal are acceptable, which will be contentious and which can negotiated or modified. This effort does not entail much resources, except for the thinking needed to formulate a handful of key questions and the mailing or faxing costs.

Fourth: Civil society actors can launch a regular forum which may be called the Pulse Forum to which legislators and their staffers can be invited for dialogues

and meaningful interaction. Such a forum will also provide a venue for establishing rapport and building long-term working relationships with legislators and their staff.

Fifth: Civil society actors can convene a Public Citizens' Legislative Summit where representatives of organized sectors can hammer out a common legislative agenda and a plan of action. The summit can list the priorities because realistically, all the legislative proposals cannot be acted on all at once. The results of the summit can be presented to the executive branch and to Congress for incorporation into their legislative agenda. Afterward, representatives of NGOs and POs can map out a lobbying game plan.

Sixth: Civil society actors should form Political Action Committees (PACs) which will not only bring their cause to Congress but also contribute volunteers and raise financial contributions to the political campaigns of congressional candidates. They should groom candidates who can champion their cause once they are elected. Part of this proposed measure is to translate the PACs' political power into actual voting power.

Seventh: NGOs and POs should immediately convene in preparation for the 1998 implementation of the party-list system. To strengthen their hand in this political exercise and raise their national visibility, they must form at least 12 coalitions or parties because the law provides for the representation in Congress of 12 sectors. These are: labor, peasant, fisherfolk, urban poor, indigenous cultural communities, elderly, handicapped, women, youth, veterans, overseas workers and professionals. Each coalition must register with the Comelec. and if they qualify, they may nominate not less than five names from the group. Once formed, these coalitions or parties must try to get the media's attention so they can make voters aware about their existence and their goals.

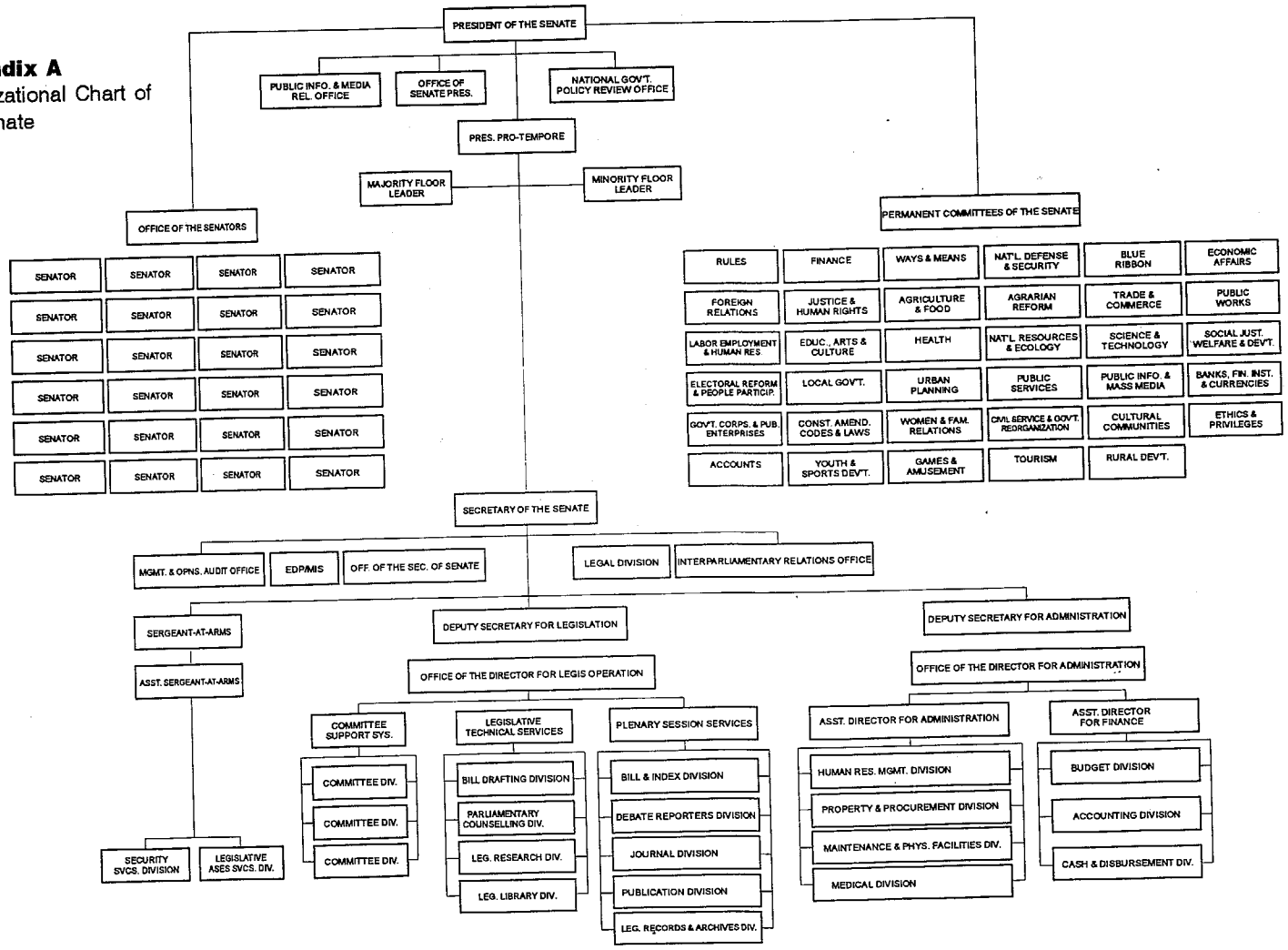
Eighth: Civil society actors must unite behind moves to institute electoral reforms and educate citizens about their civic rights and duties. An improved electoral system and more aware voters can help ensure the election of a more responsive and accountable legislature. Hopefully, if civil society actors take the suggested courses of action listed above, they can contribute to shaping a Congress that is truly a parliament of the people. After all, as the saying goes: "Democracy is not a spectator sport."

ENDNOTES

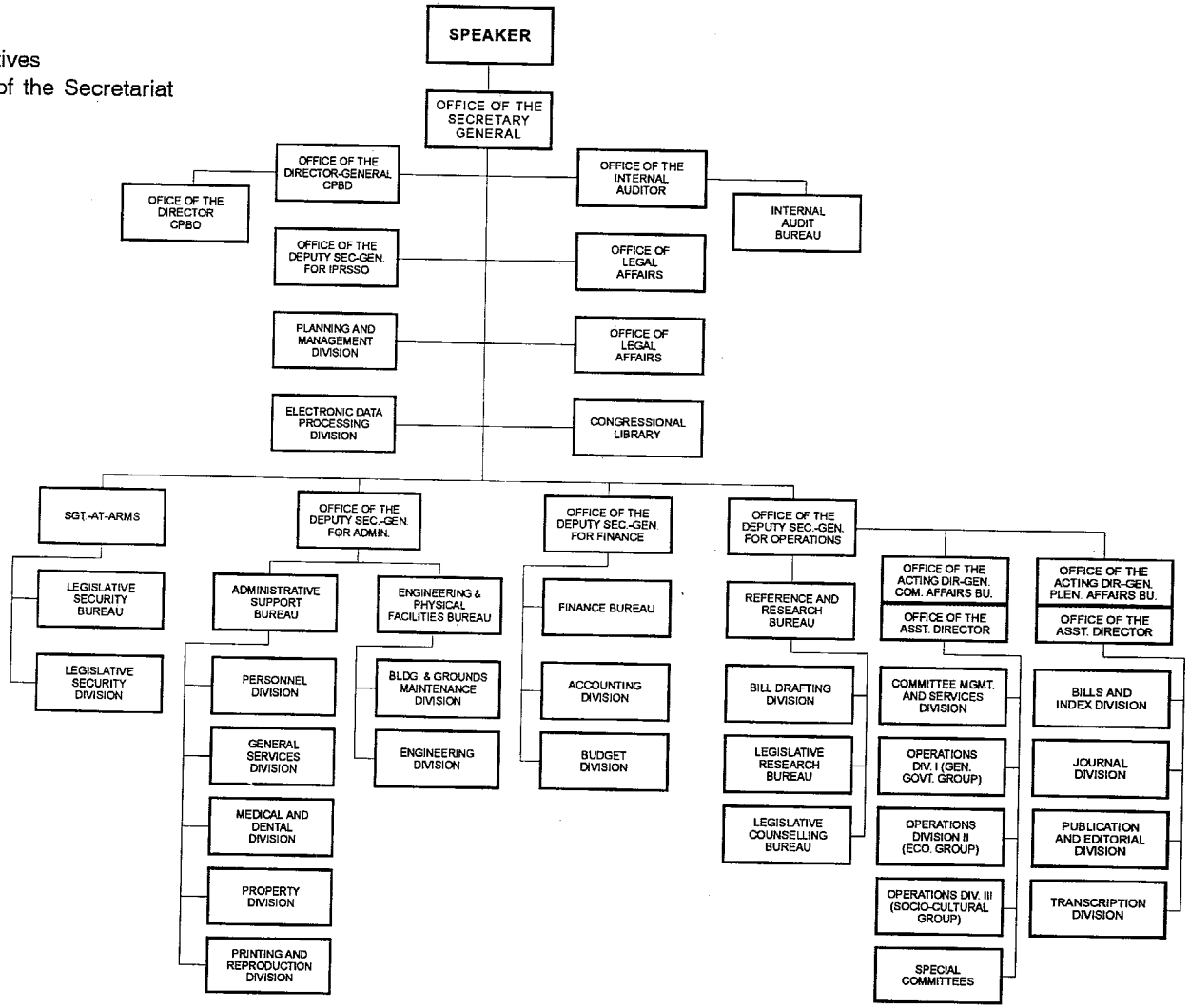
1 *Vital Legislative Achievements 1987-1992*, Congress of the Philippines.
2 *Vital Legislative Achievements 1994-1995*, Congress of the Philippines.
3 "20 Bills Now Law," *Congress Bulletin*, Office of Media Affairs, House of Representatives, Vol.3, No. 3, July-August 1996, p.1.
4 *The Constitution of the Republic of the Philippines* hereinafter referred to as The Constitution, National Government Center, October 15, 1986, p.50.
5 Ibid., Art. VI, Sec. 32, p.16.
6 Republic Act No. 6735.
7 Ibid.
8 Ibid.
9 The Constitution, Art. VI, Sec. 5(2), p. 10.
10 Republic Act No. 7941.
11 The Constitution, Art VI, Sec. 21, p. 13.

12 Ibid., Art. X, Sec. 9, p. 36.
13 Ibid., Art. IX, C, Sec. 12, p. 33.
14 A basic reference material on Congress is *The Philippine Legislative Reader* published by the Center For Legislative Development, January 1996.
15 See **APPENDICES A and B** for the organizational charts of the Senate and the House, respectively.
16 The rules of either Chamber may be changed or modified in every congressional term. Copies of the Rules of the Senate and Rules of the House can be obtained for free from the secretariat of both chambers.
17 Please refer to **APPENDICES C and D** for the list of committees, membership and scope of work for the Senate and the House, respectively.
18 De Venecia's wife is the sister of Maceda's estranged spouse.
19 As of this writing, two LDP members, namely Rep. Hernando Perez and Rep. Neptali Gonzales, Jr. have resigned from the party. Speculations are rife that Perez will join the Lakas-NUCD while Gonzales, Jr. has already joined the PMP.
20 It was created by virtue of Republic Act No. 7640 signed on December 9, 1992. It is composed of 20 Members with the President as chairman and the following as members: the Vice-president, the Senate president, the House Speaker, seven Cabinet members designated by the President, three Senators designated by the Senate president, three congressmen designated by the House Speaker, at least one of whom shall come from the dominant minority party, and the following presidential appointees; a representative of the local government units, a youth representative and a private sector representative from any or a combination of the following: business, cooperatives, agriculture and labor. Membership in the Council shall be an extension of legislative functions.
21 See **APPENDIX E** for a schematic diagram of "How a Bill Becomes a Law" which was prepared by former Constitutional Convention delegate Regalado E. Maambong for his lecture in the House of Representatives on August 21, 1995.
22 Interview with Mr. Armand Sebastian who has been a Senate staffer since the Eighth Congress up to the present.
23 Interview with Senator Juan Flavier.
24 Interview with Atty. Arlene Dada-Arnaldo, acting director of the House's Plenary Affairs Bureau, who has been a key congressional staffer since the Eighth Congress.
25 Ibid.
26 Ibid.
27 Interview with Rep. Manuel "Mar" Roxas II.
28 Before the Senate and House bicameral conference committee met on the "sin taxes," de Venecia reportedly met with the Ilocano solons who eventually agreed to the specific tax. According to columnist Belinda Cunanan, what convinced them was the allocation of P 1-billion to tobacco regions under RA No. 7171. See "Political Tidbits," *Philippine Daily Inquirer*, November 16, 1996, p. 9.
29 Interview with Prof. Renato Velasco, political science professor at the University of the Philippines and chief-of-staff of Rep. Mar Roxas II.
30 Ibid.
31 Interview with Senator Gloria Macapagal-Arroyo.
32 Interview with Rep. Mike Defensor.
33 Eric Gutierrez, *The Ties That Bind: A Guide To Family Business and Other Interests in the Ninth Congress of the House of Representatives*. Pasig: PCIJ-IPD, 1994.
34 Interview with Senator Orlando Mercado.
35 Interview with Rep. Leonardo Montemayor.
36 Interview with Senator Sergio Osmeña III. The Magnificent Nine, according to Osmeña are the following: ShoeMart capitalized at P1.56 billion, Mercury Drug at P841 million, Rustan's at P565 million, Zenco Sales at P392 million, National Bookstore at P365 million, Communications Solutions at P324 million and Transunion Corp at P269 million, Uniwide Sales Warehouse Club at P245 million and Supervalue Inc at P205 million.
37 Ibid.
38 The writer was present during this meeting.
39 The writer made this explanation to Ms. Cecile Hoffmann and Atty. Cecile Ursua of SIBOL, an umbrella organization of women's groups.

Appendix A
Organizational Chart of the Senate



Appendix B
House of Representatives
Organizational Chart of the Secretariat



APPENDIX C COMMITTEES IN THE SENATE

1. Committee on Rules - Seven members. All matters affecting the Rules of the Senate; the calendar as well as parliamentary rules and the order and manner of transacting business and the creation of committees.

   The Chairman of the Committee shall be the Majority Leader of the Senate. The Vice Chairmen shall be the Assistant Majority Leaders.

2. Committee on Ethics and Privileges - Seven members. All matters relating to the conduct, rights and privileges, safety, dignity, integrity and reputation of the Senate and its Members.

3. Committee on Accounts - Seven members. All matters relating to the auditing and adjustment of all accounts chargeable against the funds for the expenses and activities of the Senate.

4. Committee on Finance - Seventeen members. All matters relating to funds for the expenditures of the National Government and for the payment of public indebtedness, auditing of accounts and expenditures of the National Government; claims against the government; intergovernmental revenue sharing; and, in general, all matters relating to public expenditures.

5. Committee on Ways and Means - Eleven members. All matters relating to revenue generally; taxes and fees; tariffs, loans and other sources and forms of revenue.

6. Committee on Economic Affairs - Nine members. All matters relating to economic planning and programming; the planning of domestic and foreign indebtedness; general economic development; and coordination, regulation and diversification of industry and investments.

7. Committee on Banks, Financial Institutions and Currencies - Seven members. All matters relating to banks, financial institutions, government and private currencies, capital markets, mutual funds, securitization, coinage and circulation of money.

8. Committee on Government Corporations and Public Enterprises - Seven members. All questions affecting government corporations; the interests of the government in the different industrial and commercial enterprises; privatization.

9. Committee on Trade and Commerce - Seven members. All matters relating to domestic and foreign trade and private corporations; patents, copyrights, trade names and trademarks; standards, weights, measures and designs, quality control, control and stabilization of prices of commodities; consumer protection; handicraft and cottage industries; and marketing of commodities.

10. Committee on Agriculture and Food - Seven members. All matters relating to agriculture, food production and agribusiness, including agricultural experimental stations, agricultural economics and research; soil survey and conservation; agricultural education; technical extension services; animal husbandry; livestock quarantine; agricultural support price; and fisheries and aquatic resources.

11. Committee on Cooperatives - Seven members. All matters relating to cooperatives, both urban- and rural-based, including, but not limited to farm credit and farm security, cooperative movements, marketing and consumers' organizations; and the implementation of the Cooperative Code of the Philippines.

12. Committee on Foreign Relations - Fifteen members. All matters relating to the relations of the Philippines with other nations generally; diplomatic and consular services; the Association of Southeast Asian Nations; the United Nations Organization and its agencies; multilateral organizations; all international agreements, obligations and contracts, and overseas Filipinos.

13. Committee on National Defense and Security - Eleven members. All matters relating to national defense, security, peace and order; the Armed Forces of the Philippines; pension plans and fringe benefits of war veterans and military retirees, citizens army selective service; forts; arsenals; military bases; reservations and yards; coast; geodetic and meteorological surveys; civil defense; Philippine National Police; private security agencies; and military research and development.

14. Committee on Peace, Unification and Reconciliation - Seven members. All matters relating to peace, internal armed conflict resolution, political negotiation, cessation of hostilities, amnesty, rebel returnees, integration and development, national unification and reconciliation.

15. Committee on Justice and Human Rights - Seven members. All matters relating to the organization and administration of justice, civil courts, penitentiaries and reformatory schools; probation; impeachment proceedings against constitutional officers and other officers legally removable by impeachment, registration of land titles; immigration and naturalization; the implementation of the provisions of the Constitution on human rights; and all matters pertaining to the efficiency and reforms in the prosecution service.

16. Committee on Public Works - Thirteen members. All matters relating to planning, construc-

tion, maintenance, improvement and repair of public buildings, highways, bridges, roads, ports, airports, harbors and parks, drainage, flood control and protection; and irrigation and water utilities.

17. Committee on Local Government - Seven members. All matters relating to autonomous regions, provinces, cities, special metropolitan political subdivisions, municipalities and barangays.

18. Committee on Urban Planning, Housing and Resettlement - Seven members. All matters relating to the development of rural areas, upliftment of the conditions of their inhabitants and delivery of basic services, except housing.

19. Committee on Rural Development - Seven members. All matters relating to the development of rural areas, upliftment of the conditions of their inhabitants and delivery of basic services, except housing.

20. Committee on Cultural Communities - Seven members. All matters relating to cultural communities.

21. Committee on Agrarian Reform - Seven members. All matters relating to agrarian reform, landed estates, and implementation of the agrarian land reform provisions of the Constitution.

22. Committee on Labor, Employment and Human Resources Development - Eleven members. All matters relating to labor employment and human resource development; maintenance of industrial peace; promotion of employer-employee cooperation; labor education standards and statistics; organization of the labor market including recruitment, training and placement of workers and exports of human resources; foreign workers in the Philippines; promotion and development of workers' organizations; and promotion and development of employment-intensive technology.

23. Committee on Education, Arts and Culture - Fifteen members. All matters relating to education, schools, colleges, universities; implementation of the provisions of the Constitution, regarding the establishment of free public elementary and secondary education scholarship grants, subsidies and incentives to deserving students; non-formal, informal, indigenous learning systems, and adult education; the preservation, enrichment and evolution of Filipino arts and culture; establishment and maintenance of libraries; museums, shrines, monuments, and other historical sites and edifices; training programs and cultural and artistic programs of international institutions and organizations operating in the Philippines, such as the UNESCO; and special commemorative events such as the observance of the centennial of Philippine Independence.

24. Committee on Health and Demography - Nine members. All matters relating to public health in general, medical, hospital and quarantine services; population issues, concerns, policies and programs affecting individuals and their families, their effects on national, social and economic conditions.

25. Committee on Environment and Natural Resources - Nine members. All matters relating to the conservation and protection of the environment, the regulation of the impact of human activities on the same, the promotion of environmental awareness of our citizens, the renewal of resources in damaged ecosystems and other environment-related issues; and all matters relating to the administration, management, development, protection, exploration, storage, renewal, regulation and licensing, and wise utilization of the country's national reserves including, but not limited to, forest, mineral, public land, offshore areas and the development of industries based on these resources.

26. Committee on Energy - Seven members. All matters relating to the exploration, exploitation, development, extraction, importation, refining, transport, marketing, distribution, conservation, or storage of all forms of energy products and resources such as from fossil fuels, like petroleum, coal, natural gas and gas liquids, nuclear fuel resources; geothermal resources and non-conventional, existing and potential forms of energy resources; and generation, transmission and distribution of electric power.

27. Committee on Science and Technology - Seven members. All matters relating to science and technology, including scientific and technological research, development and advancement.

28. Committee on Social Justice, Welfare and Development - Seven members. All matters relating to the implementation of the provisions of the Constitution on social justice.

29. Committee on Public Services - Eleven members. All matters relating affecting public services and utilities; communications, land, air, river and sea transportation including railroads, inter-island navigation, and lighthouses; and the grant or amendment of legislative franchises.

30. Committee on Public Information and Mass Media - Seven members. All matters relating to public information, mass communication and broadcast services; the implementation of the provisions of the Constitution regarding ownership and management of mass media and the advertising industry; and the

development and promotion of information technology.

31. Committee on Constitutional Amendments, Revision of Codes and Laws - Seven members. All matters proposing amendments to the Constitution of the Philippines and the compilation and revision of existing codes and laws; election laws and implementation of constitutional provisions on initiative and referendum on legislative acts; recall of elective officials; the role and rights of people's organizations; and sectoral representation.

32. Committee on Civil Service and Government Reorganization - Seven members. All matters relating to the Civil Service and the status of officers and employees of the government including their appointment, discipline, retirement; their compensation privileges, benefits and incentives; implementation of the constitutional provisions on the rights of government workers to form and join labor organizations; public sector labor-management relations and collective negotiation agreements; reorganization of the government or any of its branches or instrumentalities; all human resource development programs pertaining to the government; and all other matters relating to the bureaucracy.

33. Committee on Women and Family Relations - Seven members. All matters relating to women and family relations.

34. Committee on Tourism - Seven members. All matters relating to tourism and the tourist industry.

35. Committee on Youth and Sports Development - Seven members. All matters relating to youth and amateur sports development; the implementation of the Constitutional provisions on youth and sports.

36. Committee on Games and Amusement - Seven members. All matters relating to amusement and professional games, such as professional basketball, horse racing, boxing, cockfighting, wrestling, lotteries and jai-alai.

37. Committee on Motion Pictures and Television - Seven members. All matters relating to the artistic standards and quality of the motion picture and television industry; definition and improvement of the artistic standards and quality of Filipino films and video productions; institution of a system of ratings for films based on their artistic, educational and moral value; enhancement of the industry's capability to produce quality films and television materials; provision for a training and human resource development system, with the necessary infrastructure support and resources to further develop and maintain the competence of those involved in the industry with the Committee on Public Information and Mass Media as primary committee; all matters pertaining to the use of film for public information and mass media and its impact on society in the formation and development of moral and cultural values; with the Committee on Games and Amusement as primary committee, protection of the industry from all forms of piracy; and jointly with the Committee on Ways and Means, the assessment and collection of amusement taxes.

38. Committee on Accountability of Public Officers and Investigations - Thirteen members. All matters relating to, including investigation of malfeasance, misfeasance and nonfeasance in office by officers and employees of the government, its branches, agencies, subdivisions and instrumentality's ; implementation of the provisions of the Constitution on nepotism; and investigation on any matter of public interest on its own initiative or brought to its attention by any member of the Senate.

SOURCE: Rules of the Senate, Tenth Congress, Manila, Senate Publications Bureau, pp. 7 -13.

APPENDIX D COMMITTEES IN THE HOUSE OF REPRESENTATIVES

STANDING COMMITTEES

The Standing Committees of the House of Representatives except the Committee on Rules, are organized on the basis of proportional representation of the majority and the minority, the membership and general jurisdiction of which shall be as hereinafter stated:

1. Accounts - 35 members. All matters relating to the preparation, submission and approval of the internal budget of the House, and supervision over the accounting and financial operations of the House.

2. Agrarian Reform - 35 members. All matters relating to agrarian reform, landed estates, resettlement and support services to the beneficiaries concerned.

3. Agriculture and Food - 55 members. All matters relating to agriculture; agribusiness; agricultural economics and research; soil survey and conservation; irrigation; agricultural education; fertilizer and pesticides; extension services; animal industry; including livestock quarantine- farm credit and farm security; crop and livestock insurance and guarantee schemes; and organization and supervision of agriculture cooperatives.

4. Appropriations - 69 members. All matters relating to funds for the expenditures of the national government and for the payment of public indebtedness, and the classification of positions and determination of salaries; allow-

ances and other fringe benefits of government personnel.

5. Banks and Financial Intermediaries - 45 members. All matters relating to banking and currency generally; government-owned or -controlled financial institutions; other financial institutions; private corporations; and insurance, securities and securities exchange.

6. Civil Service and Professional Regulation - 25 members. All matters relating to the operation and rules of the civil service and the status of officers and employees of the government, including their welfare and benefits such as retirement, pension and gratuity; and the regulation of professions and professionals.

7. Civil, Political and Human Rights - 25 members. All matters relating to the enhancement or protection of human rights of all persons in the Philippines and Filipinos abroad; assistance to victims of human rights violations and their families; and the prevention of or punishment for violations thereof.

8. Constitutional Amendments - 35 members. All matters relating to amendments of the Constitution.

9. Ecology - 25 members. All matters relating to ecosystem management including population control.

10. Economic Affairs - 45 members. All matters relating to economic or socioeconomic studies, planning, programming and development, including social security programs.

11. Education and Culture - 55 members. All matters relating to education and culture; schools, colleges and universities; libraries and museums; non-formal and community adult education; the national language; and the preservation, enrichment and dynamic evolution of Filipino national culture.

12. Energy - 35 members. All matters relating to the exploration, development, exploitation, utilization or conservation of energy; and public utilities concerned with power generation, transmission, distribution and supply.

13. Ethics - 25 members. All matters relating to the duties, conduct, rights, privileges, dignity, integrity and reputation of the House and its members, individually or collectively.

14. Foreign Affairs - 45 members. All matters relating to the relations of the Philippines with other countries; diplomatic and consular services; the United Nations and its agencies; international cultural, health, labor and other organizations.

15. Games and Amusements - 35 members. All matters relating to all forms and places of recreation, games and amusements.

16. Good Government - 35 members. All matters relating to, including investigations of, malfeasance, misfeasance and nonfeasance in office by officers and employees of the government, its political subdivisions and instrumentalities; and investigations of any matter of public interest, on its own initiative or brought to its attention by any member of the House.

17. Government Enterprises and Privatization - 35 members. All matters relating to the creation, organization, operation and reorganization of government-owned or -controlled corporations other than banks and financial institutions, including the Government Service Insurance System, the Social Security System and similar institutions.

18. Government Reorganization - 25 members. All matters relating to the reorganization of the government or any of its branches and instrumentalities, excluding government-owned or -controlled corporations, and the creation or abolition of any government agency or change of its principal functions.

19. Health - 45 members. All matters relating to public health and hygiene; and medical, hospital and quarantine facilities and services.

20. Housing and Urban Development - 35 members. All matters relating to housing and all other forms of human shelter or habitation, wherever located; and urban land reform and development; particularly water supply, electrification and zoning and the upliftment of the condition of the urban poor.

21. Interparliamentary Relations and Diplomacy - 19 members. All matters relating to interparliamentary relations, linkages with international parliamentary organizations such as, but not limited to, ASEAN Interparliamentary Organization (AIPO), Asia-Pacific Parliamentarians' Union (APPU). Asia-Pacific Parliamentary Forum (APPF) and the Inter-Parliamentary Union (IPU); establishment of interparliamentary friendship societies; foreign travel and attendance in international conferences including the formulation of guidelines/standard operating procedures in connection with such foreign travel; and visits of parliamentary delegations as well as other foreign dignitaries.

22. Justice - 45 members. All matters relating to rules of procedure governing inquiries in aid of legislation; administration of justice; civil courts; penitentiaries and reform schools; practice of law and integration of the Bar; legal aid; adult probation; impeachment proceedings against constitutional officers and other officers removable by impeachment; registration of land titles; and immigration, deportation and naturalization.

23. Labor and Employment - 45 members. All matters relating to labor, employment and manpower development; maintenance of industrial peace and promotion of employer-employee cooperation; labor education; standards and statistics; organization of the labor market, including promotion, development, recruitment, training and placement of manpower here and abroad.

24. Local Government - 45 members. All matters relating to provinces, cities, municipalities, sanggunians and barangays, including those connected exclusively with their revenues or expenditures.

25. Legislative Franchises - 35 members. All matters relating to the grant, amendment, extension or revocation of franchises.

26. Muslim Affairs - 25 members. All matters relating to Muslim affairs and the development of predominantly Muslim areas.

27. National Cultural Communities - 25 members. All matters relating to national cultural communities and the development of predominantly cultural community areas.

28. National Defense - 45 members. All matters relating to national defense and security; Armed Forces of the Philippines; citizens army; selective services; forts and arsenals; military bases- reservations and yards; and coast and geodetic surveys.

29. Natural Resources - 45 members. All matters relating to natural resources, except energy, and their exploitation, management, exploration and utilization; lands of the public domain; mines and minerals; forests and parks.

30. People's Participation - 25 members - All matters relating to the role, rights and responsibilities of people's organizations; and the establishment of adequate mechanisms for consultation with and participation in the affairs of government.

31. Population and Family Relations -25 members. All matters relating to population growth, family planning, census and statistics- family relations, rights and responsibilities; quality of family life, care of the elderly and street children.

32. Public Order and Security - 45 members. All matters relating to civil defense, police and police forces and agencies and private security agencies.

33. Public Information - 25 members. All matters relating to public information and all means of mass communication and the rights, privileges and responsibilities of those engaged therein.

34. Public Works and Highways - 55 members. All matters relating to the planning, construction, maintenance, improvement and repairs of public buildings, highways, bridges, roads, parks and shrines, and monuments and other public edifices of historic interest; and drainage, flood control and protection; water utilities and utilization of waters of the public domain.

35. Revision of Laws - 25 members. All matters relating in general to revision and/or codification of laws.

36. Rules - 21 members. All matters relating to the Rules of the House; Order of Business and Calendar of Business; and the creation of committees and their jurisdiction. The Majority Leader shall be the chairman and the minority leader a member of this committee.

37. Rural Development - 25 members. All matters relating to the development of the rural areas, upliftment of the condition of their inhabitants, and delivery of basic services, except housing.

38. Science and Technology - 25 members. All matters relating to the development and advancement of science and technology; and scientific and technological research.

39. Social Services - 25 members. All matters relating to social problems which affect the stability and adjustment of the individual and the community to the environment, and the appropriate social services which uplift, strengthen and develop individual and community life.

40. Suffrage and Electoral Reforms - 25 members. All matters relating to suffrage and the conduct of elections, plebiscites, initiatives, referenda and recalls.

41. Tourism - 35 members. All matters relating to tourism and the tourist industry.

42. Trade and Industry - 55 members. All matters relating to domestic and foreign trade; patents; trade names and trade marks, standards, weights and measures; designs; quality control; consumer protection; control of prices of commodities; handicrafts and cottage industries; and the development, coordination, regulation and diversification of industry and investments.

43. Transportation and Communications - 55 members. All matters relating to land, sea, and air transportation and all public utilities connected therewith; ports; and postal, telegraph, radio, telephone and other communication services.

44. Veterans Affairs - 25 members. All matters relating to war veterans, veterans of military campaigns, military retirees, their surviving spouses and other beneficiaries.

45. Ways and Means - 55 members. All matters relating to fiscal; monetary and financial affairs of the national government, including tariff, taxation, revenue, borrowing, credit and bonded indebtedness.

46. Women - 35 members. All matters relating to women's rights, protection and welfare, employment and working conditions and their potential and role in nation-building.

47. Youth and Sports Development - 25 members. All matters relating to youth development and promotion of moral, physical, intellectual and social well-being; and sports development in general.

SPECIAL COMMITTEES

1. Special Committee on Employment Generation - 15 members. To conduct a comprehensive study and review of the unemployment situation in the country, including but not limited to, the factors and influences causing it; to recommend to the House such programs and policies geared toward the creation of employment opportunities sufficient to meet the employment requirements of the country.

2. Special Committee on Poverty Alleviation - 15 members. To conduct a comprehensive study and review of the poverty incidence in the country and to recommend to the House such programs and policy proposals intended to protect and enhance the right of the poor to a decent life.

3. Special Committee on Effective Law Enforcement - 15 members. To conduct a comprehensive study on matters relating to criminality in the country particularly organized crime, including oversight and review of policies and programs on law enforcement and to recommend to the House such legislation or action as the committee deems necessary with respect to the Philippine National Police and other agencies tasked with crime prevention.

4. Special Committee on Export Promotion - 15 members. To conduct a comprehensive review of the programs and policies regarding or affecting exports and to recommend to the House by way of legislation, ways and means of accelerating export growth, reducing the trade deficit and thereafter, maintaining a favorable trade balance.

5. Special Committee on Reforestation - 15 members. To conduct a comprehensive study and review of the policies and programs concerning reforestation including the effects of forest denudation such as soil erosion, siltation and drought and to recommend to the House such legislation or action as it deems appropriate to ensure a successful massive reforestation program.

6. Special Committee on Savings Mobilization - 15 members. To pursue and oversee the implementation of the president's 15-point savings mobilization plan; to conduct a continuing comprehensive study and review of the policies and programs on domestic savings and to recommend to the House such measures as it deems necessary to generate two hundred billion-peso savings in two years.

7. Special Committee on the Generation of A Million Small Enterprises - 15 members. To conduct a comprehensive study and review of the policies and programs concerning small enterprises and to recommend to the House such legislation or action as it deems necessary to promote and encourage the viability of small enterprises.

8. Special Committee on the Peace Process and Integration - 15 members. To conduct a comprehensive study and review the policies and programs on amnesty and the integration into the mainstream of society of all rebels, insurgents and other persons who have or may have committed political crimes, and to recommend to the House by way of legislation ways of attaining lasting peace and a successful unification process.

9. Special Committee on the Fisheries Industry - 15 members. To conduct a comprehensive study and review of all policies and programs concerning fisheries and aquatic resources; to recommend to the House such legislation or action as it may deem necessary to develop the fisheries industries and promote the maximum economic utilization of fishery resources.

10. Special Committee on the Northwest Luzon Growth Quadrangle - 15 members. To conduct a comprehensive study of all policies and programs concerning the Northwest Luzon Growth Quadrangle and to recommend to the House such legislation or action as it may deem necessary for the promotion of greater economic cooperation with proximate economies.

11. Special Committee on the East Asean Growth Area - 15 members. To conduct a comprehensive study and review of the political, economic and social policies affecting the countries of the participating units in the East Asean Growth Area and to recommend to the House such legislation or action as it may deem necessary to foster and facilitate trade and investment among the participating units.

12. Special Committee on Cooperatives Development - 15 members. To conduct a comprehensive study and review of all policies and programs concerning cooperatives, except agricultural cooperatives; and to recommend to

the House legislation or other action to foster the creation and growth of cooperatives in the country.

13. Special Committee on Food Security - 15 members. To conduct a comprehensive study and review of the programs and policies relating to food production and distribution, including the factors affecting the supply of basic food commodities such as rice, corn, fish, poultry and hogs; and to recommend to the House legislation or other actions necessary for fast-tracking the development and modernization of the agricultural sector and attaining food security, self-reliance and sustained growth in basic food commodities.

14. Special Committee on Mount Pinatubo - 15 members. To conduct a comprehensive study and review of the programs and policies relating to the rehabilitation and reconstruction of Mt. Pinatubo-devastated areas and the inhabitants thereof, and to recommend to the House legislation or other action as it deems necessary to facilitate their recovery growth and development.

15. Special Committee on Overseas Contract Workers - 15 members. To conduct a comprehensive review of the policies and programs affecting overseas contract workers; and to recommend to the House legislation or other action the committee deems necessary to promote their full protection, employment and welfare.

16. Special Committee on Bicol Region Development - 15 members. To conduct a comprehensive study of all policies and programs concerning the Bicol region and to recommend to the House such legislation or other action it may deem necessary to facilitate development and growth in the region.

17. Special Committee on Twenty (20) Depressed Provinces - 23 members. To conduct a comprehensive study and review of all programs and policies relating to the Social Reform Agenda of the government for twenty (20) depressed provinces of our country, and to recommend to the House legislation or other actions necessary for fast-tracking the development of these provinces in order that they can catch up with other developed provinces and to monitor the implementation of projects. The following are the said twenty (20) depressed provinces: Abra, Agusan Del Sur, Antique, Apayao, Aurora, Basilan, Batanes, Benguet, Biliran, Eastern Samar, Guimaras, Ifugao, Kalinga, Masbate, Mountain Province, Romblon, Southern Leyte, Sulu, Surigao Del Sur and Tawi-Tawi.

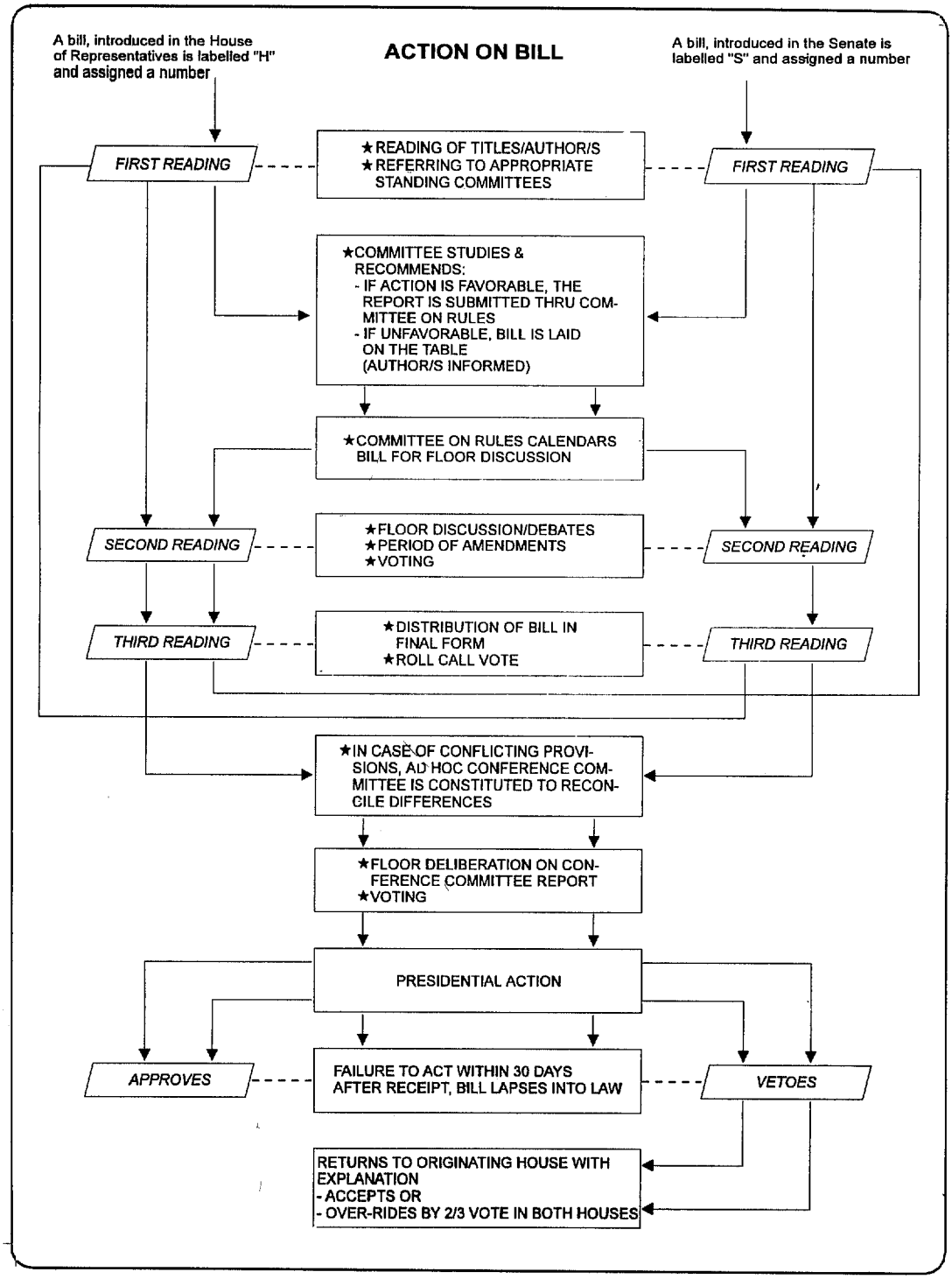
18. Special Committee on National Disasters - 15 members. To look into factors that hamper and adversely affect the effectiveness of established government response to national disasters to review all laws relating to or encompassing control and management of national disasters; to initiate the enactment of legislative measures for the development of a more comprehensive and expedient government response to national disasters among the different departments and agencies of the government as well as non-government organizations and other private entities in undertakings and programs that are geared towards the establishment of a more expedient and comprehensive national disaster response and to utilize the necessary and appropriate legislative powers and prerogatives to halt activities designed to exploit the occurrence of national disasters.

19. Special Committee on Mindanao Affairs - 15 members. To conduct a comprehensive study and review of all policies and programs of proposed solutions to the multifarious problems and constraints which have long hampered the development of Mindanao; to gather, collate and consolidate planning data, research reference/statistics to be able to draft a holistic, rational, systematic and comprehensive development plan consisting of the short, medium and long-term for Mindanao; and to recommend to the House such legislation or action as the committee deems appropriate to accelerate the development of Mindanao and its transformation into a vital trading center.

20. Ad Hoc Oversight Committee on Bases Conversion - 15 members. To exercise general jurisdiction over all matters relating to bases conversion, operation of special economic zones in former military bases, sale of military camps and disposition of its proceeds, relocation of military camps and personnel including construction of new camps.

SOURCE : Rules of the House of Representatives, Quezon City, House Printing Division, March 1996, pp.7 - 18.

Appendix E How a Bill Becomes Law



AGRARIAN REFORM

The Influence of the Congress for a People's Agrarian Reform (CPAR) on the Legislative Process

Introduction

Formed in May 1987 and disbanded in the summer of 1992, the Congress for a People's Agrarian Reform (CPAR) was the broadest coalition of peasant organizations to campaign and lobby for the passage by Congress of a comprehensive agrarian reform law. Its members included national democrats, social democrats, socialists, politically non-aligned peasant groups, and non-partisan grassroots organizations. These disparate organizations were united by their commitment to thorough and genuine agrarian reform. How to achieve this common goal was the question that hounded CPAR since its founding congress, and was the decisive issue in the coalition's break-up in 1992.[1]

CPAR believed that agrarian reform could no longer be postponed. It realized that redressing historic inequities in land tenure was not only a moral and ethical imperative, but was also a necessary first step toward achieving economic growth. CPAR was not the only organization working for a comprehensive agrarian reform. Some groups not part of the alliance have been involved in agrarian issues years before some of the organizations that were part of CPAR were formed. What distinguished CPAR from other organizations, however, was the energizing effect it had not only on the struggle for agrarian reform, but also on the whole social movement and on what is often referred to as civil society. At the height of CPAR's legislative campaign, agrarian reform became a subject of mainstream debate and public discussion.

This case study will look at the experience of CPAR in legislative intervention, particularly its efforts to influence the passage of an agrarian reform law from July 1987 to June 1988. This paper will attempt to answer the following questions: What means of intervention did CPAR use to influence the lawmakers and the legislative process? What was the impact of CPAR on the legislative arena? What were its successes and failures?

A Brief History of CPAR

The expansion of democratic space marked the first year of the Aquino administration. Political detainees were released. Civil rights were restored. Talks

between the government and the underground National Democratic Front were initiated. For the first time, the prospect of real peace loomed in the political horizon. The gates of democracy were suddenly opened, letting out a flood of high hopes and expectations for lasting social reforms.

For the peasantry, it seemed that genuine agrarian reform was now a real possibility. Many peasant organizations were therefore disappointed when the Aquino government, instead of undertaking sweeping land reform, chose to pass on the issue of land redistribution to the Constitutional Commission and later, the still-to-be- elected Congress. This disappointment turned to frustration when conservative elements in the commission drafting the Constitution resisted proposals to include in the charter the right of farmers to own land in line with the principles of social justice and equity.

Those from people's organizations and the emerging sector of non-government organizations began to doubt whether the Aquino government — whose existence was already being threatened by rebellious military factions — could stand by its original promise to institute reforms. In January 1987, when farmers marching toward the presidential palace were gunned down by the police and military, many organizations came close to abandoning all hopes for a government-sponsored comprehensive agrarian reform law.

Still, many others continued to believe that changes were still possible despite the hardening of the Aquino government's position on many key issues. At the same time, despite the instability and uncertainty of the first few years of the post-Marcos era, many non-government groups, non-political party organizations and multisectoral, cross-political bloc formations were formed. Issues and themes which were previously set aside by the anti-Marcos protest movement — like the environment, gender equality, ethnicity, sustainable development — became new focal points for the organization and mobilization of newly politicized sections of the population.

At the same time, new constituents were recruited and renewed energy was poured into the traditional issues of the progressive movement — the presence of US military bases, economic sovereignty, and agrarian reform. Important players during this period were the broad-based, pluralistic, and single-issue coalitions. In the Philippines, coalitions have been an effective form of collective action in asserting democratic and popular demands. But those in the post-Marcos era — like the Anti-Bases Coalition, Green Forum, Coalition for Peace, Freedom from Debt Coalition, National Congress of Fisherfolk for Aquatic Reforms, and CPAR — were even more potent than those in the past.[2] Instead of just criticizing government policies and laying down demands, these coalitions presented concrete alternatives and engaged in activities to test the viability of these alternatives.

The Founding of CPAR

CPAR was launched on May 31, 1987, on the last day of a three-day multisectoral congress convened to discuss the state of the rural areas and the prospects for genuine agrarian reform. But the process to form a peasant coalition for genuine agrarian reform began earlier.

The new political configuration that emerged after the downfall of the Marcos dictatorship presented real potential for democratic reforms. People's organiza-

tions, activist groups and non-government organizations saw the need to continue and expand the scope of the democratization process. Peasant organizations, whose hopes of influencing government policy had been raised by the democratic reforms initiated by the Aquino administration, made known to the government as well as to the general public various proposals for agrarian reform.

The Kilusang Magbubukid ng Pilipinas (KMP), a veteran of the anti-Marcos dictatorship movement, presented two major documents outlining policy proposals for genuine agrarian reform and for agricultural and countryside development.[3] Another major set of policy proposals was also presented by the Pambansang Kilusan ng mga Samahang Magsasaka (PaKiSaMa).

Meanwhile, NGOs all over the country held consultations, round-table discussions, and conferences to assess the new situation and its implications not only on their work as NGOs, but on the whole democratization and development process. Of these NGO consultations, those initiated by the Partnership for the Development of Human Resources in the Rural Areas (PHILDHRRA) had a significant bearing on the formation of CPAR. From May to August 1986, PHILDHRRA sponsored a series of people's consultations at the national, regional, and village level to draw up concrete policy recommendations for government. In all, 10,000 members of grassroots organizations took part in these meetings, known as the National Consultations on Agrarian Reform and Rural Development (NaCARRD). A second NaCARRD was convened in the latter part of August 1986 to consolidate the results of the previous consultations.[4]

Other NGOs, among them the Forum for Rural Concerns (FRC), Philippine Rural Reconstruction Movement (PRRM), Center for Community Services (CCS), Asian NGO Coalition (ANGOC) and the Ramon Magsaysay Award Foundation, also conducted similar consultations. The Urban-Rural Mission of the National Council of Churches in the Philippines and the National Secretariat of Social Action (NASSA) also pushed for genuine agrarian reform in their meetings. Altogether, such public advocacy of land reform helped lay the ground for the founding of CPAR.[5]

These consultations and initiatives showed that the people, particularly the peasants and small farmers, wanted government to expand the democratization process not only by reinstating civil liberties and formal democratic rights, but also by redressing social inequities, starting with the centuries-old problem of the concentration of land ownership.

A series of alarming events catalyzed the coming together of all these separate NGO efforts. On January 22, 1987, 18 farmers were gunned down by the military in a rally at the foot of Mendiola bridge, not far from the presidential palace. Before this, and even after this, President Aquino had refused to meet face to face with peasant leaders to discuss the issue of agrarian reform. At the same time, landowners' groups were blocking the signing of an executive order on agrarian reform that NGOs and POs were lobbying for.

Key members of the FRC, ACES, CCS, ANGOC, PRRM and PPI took the lead in gathering all the different NGOs advocating agrarian reform and linking them up with national peasant organizations.[6] These NGOs and peasant organizations agreed that they needed to build the broadest possible coalition of organizations that would push government to come up with a comprehensive agrarian reform program. Preparations for the setting up of this "dream coalition" were immediately set into motion.

The opportunity to hasten the founding of the agrarian reform coalition came in the form of the Rural Congress that was being organized by the Catholic Bishops Conference of the Philippines and the National Council of Churches in the Philippines. The prime objective of the Rural Congress was to bring together rural development workers and advocates from different parts of the country to discuss the situation in the rural areas. The two initiatives — one to call a Rural Congress, the other to form a coalition for agrarian reform — were soon merged into one. This merger was facilitated by members of the Rural Congress' working committee who were also part of the coalition project.

Thus, on May 29 to 31, 1987, 225 people belonging to 70 peasant organizations, NGOs, activist organizations, and church groups convened the National Congress for a People's Agrarian Reform. The consensus and common principles and objectives arrived at by the participants in this congress were embodied in a document called "The People's Declaration of Agrarian Reform." The principles and objectives as originally formulated were:

(1) land to the tiller, the complete abolition of landlordism, abolition of absentee proprietorship, and access of fisherfolk to water resources;
(2) comprehensive coverage of all agricultural lands regardless of classification, crops planted, existing land tenure relationship, or farm size, water and natural resources;
(3) terms and conditions of land reform that are not burdensome to beneficiaries;
(4) full and genuine participation of agrarian reform beneficiaries in program planning, implementation, and monitoring;
(5) full provision of adequate, timely and appropriate services for agrarian reform beneficiaries;
(6) compensation to landowners based on a selective and progressive payment scheme;
(7) preferential option for cooperatives and collective farms in crop production and marketing as well as the provision of credit; and
(8) the use of local resources for agrarian reform.

Thirteen national peasant organizations initially made up CPAR when it was launched. A fisherfolk group called Bahanggunian later pulled out from the coalition. Prior to this, two big federations — the Federation of Free Farmers and the National Farmers' Supreme Council (Sanduguan) — which attended the May congress decided not to join the coalition. The twelve peasant federations that made up CPAR were:

(1) Aniban ng mga Manggagawa sa Agrikultura (AMA)
(2) Pambansang Pederasyon ng Kababaihang Magbubukud (AMIHAN)
(3) Katipunan ng mga Bagong Pilipina (KABAPA)
(4) Kapatiran ng Malalayang Maliliit na Mangingisdang Pilipino, Ink. (KAMMMPI)
(5) Kalipunan ng mga Samahan ng Mamamayan (KASAMA)
(6) Kilusang Magbubukid ng Pilipinas (KMP)
(7) Lakas ng mga Magsasaka, Manggagawa, at Mangingisda ng Pilipinas (LAKAS)
(8) Lakas ng Magsasakang Pilipino (LMP)
(9) National Federation of Sugarworkers-Food and General Trades (NFSW-FGT)
(10) Pambansang Kilusan ng mga Samahang Magsasaka (PAKISAMA)
(11) Pambansang Lakas ng Kilusang Mamamalakaya ng Pilipinas (PAMALAKAYA)
(12) Philippine Association of Small Farmers and Fisherfolk, Inc. (PASFFI).

CPAR's highest policy-making body was the National Consultative Council (NCC) which was composed of representatives from the 12 member organizations. The NCC chairperson was to function merely as a facilitator, and the position was regularly rotated among members of the council. Decision-making was consensual, which meant that everyone had to agree before a decision was considered final and executory. While this practice meant a slower work pace for the coalition, it also ensured that each and every step CPAR made was supported by all of its members. The preparatory working committee for the May Congress, which was made up of representatives of the NGOs that were the most active in organizing CPAR, were asked by the NCC to stay on to provide technical support to the coalition. These NGOs constituted CPAR's expanded secretariat. A full-time national secretariat composed of young activists and professionals was formed to coordinate CPAR's day-to-day activities.[7]

CPAR's Efforts to Influence Government's Agrarian Reform Policy

Immediately after it was formed, CPAR embarked on a massive campaign to petition government to come up with a comprehensive agrarian reform program. Perceiving that the newly elected Congress was dominated by landlords, CPAR decided to focus on working to get President Aquino to issue an executive order that would uphold the principles agreed upon by various NGOs during the coalition's founding. CPAR calculated that such an executive order would prevent Congress from legislating against agrarian reform since they would have to work within the parameters set by Aquino.

On June 11, 1987, leaders of the coalition formally presented to the President their "Declaration of Principles." CPAR also actively engaged the Cabinet Action Committee (CAC), the task force formed by Aquino after the Mendiola massacre to consolidate proposals related to agrarian reform. While consultations with the CAC went on, CPAR organized mass actions and held media briefings and news conferences to make the public aware of the ongoing process.

On July 22, 1987, Aquino signed Executive Order 229 (EO 229) putting all public and private agricultural lands under an agrarian reform program to be implemented through a variety of schemes like voluntary land transfer, voluntary offer to sell, and stock-sharing and distribution. EO 229 also guaranteed the continuation of Presidential Decree 27, the Marcos era-land reform program covering rice and corn lands. It provided for a 180-day compulsory land registration campaign called "Listasaka." In addition, the Department of Agrarian Reform was given quasi-judicial powers, and the Presidential Agrarian Reform Council was formed.

CPAR rejected EO 229, which it deemed too ambiguous to provide any real protection to poor farmers and peasants against big landowners. By July 1987, when the new Congress was in session, CPAR shifted its lobbying efforts from the executive to the legislative. The coalition engaged the House of Representative directly and more actively than it did the Senate, as the former was tasked with drafting and passing an agrarian reform law.

CPAR directly intervened in the legislative process from July 1987 to April 1988, a relatively short period in the coalition's five-year life span. The brevity of its direct legislative encounter did diminish CPAR's ability to have an impact on the passage of the Comprehensive Agrarian Reform Law or Republic Act (RA) 6657. In

the end, however, CPAR rejected the law Congress passed because it provided landowners with many loopholes for circumventing land reform.

PARCODE and the failed "Parallel Initiatives"

Instead, the coalition adopted an alternative agrarian reform program called "People's Agrarian Reform Code" (PARCODE), and shifted its energies to directly implementing this program. PARCODE was formulated by 600 representatives of NGOs and POs from all over the country during a multisectoral conference organized by CPAR. The key points of PARCODE are:

(1) land to the tiller and complete abolition of absentee land ownership;
(2) comprehensive coverage of all types of arable land, water resources, as well as tillers and other direct producers;
(3) progressive and selective compensation;
(4) inclusion of all previous land rentals and unpaid labor as direct payments;
(5) full participation of beneficiaries in decision-making and implementation;
(6) preferential option for cooperatives and collectives;
(7) rights of women to own land;
(8) reversion to Filipino control of all lands leased by multinational corporations;
(9) right of small fisherfolk to greater access to and use of water resources;
(10) ancestral land rights;
(11) implementation of just labor conditions for farmworkers; and
(12) use of local resources for financing agrarian reform.

To implement PARCODE, CPAR launched two sets of "parallel initiatives." The grassroots initiatives called for CPAR member-organizations to implement PARCODE or some of its features. These included land occupation, and the development of alternative economic structures like cooperatives. Land occupation entails poor peasants and landless agricultural workers occupying and cultivating idle or abandoned land and property sequestered or marked for sequestration by government.

The second set of initiatives was in the legislative arena, and called for gathering three million signatures all over the country in support of PARCODE. The 1987 Constitution allows the people to amend, reject, or enact a law through a petition signed by at least 10 percent of the total registered voters.[8] CPAR's legislative initiative hoped to influence legislation by utilizing the constitutional provision for direct amendment.

From mid-1988 to the end of 1990, CPAR poured all its resources to developing these twin initiatives. PARCODE Campaign Centers were set up in the different regions to coordinate the information drive and gathering of signatures in the provinces. At the national level, CPAR launched a two-month long campaign to popularize PARCODE. This campaign culminated in a rally held in front of the DAR central office that was attended by 4,000 peasants and peasant advocates. The mass demonstration was held on June 10, 1988, the first anniversary of the agrarian reform law. Later that day, the farmers marched to the Ateneo de Manila University where an indoor rally was held and attended by more than 7,000 people.

Despite these efforts, leaders and organizers of CPAR had, by the end of 1990, begun to doubt the correctness of the coalition's two-pronged strategy.[9] The

grassroots initiative campaign proved difficult to sustain. From 1989 to 1991, landless peasants moved into abandoned lands and made these productive. CPAR documented 16 successful cases of land occupation.[10] But some NGOs working with peasant organizations engaged in land occupation and other forms of direct action had mixed feelings about the outcome of the grassroots initiatives.[11] For one thing, many of the land occupation cases were deemed failures because the peasants were legally disqualified to own the land they had occupied. Some of them were only partially successful because the peasants were having tremendous difficulties in making the land productive due to lack of farm support services, credit and appropriate technology as well as continuing harassment from landowners.

By the end of 1991, CPAR was already organizing multisectoral fact finding groups to investigate anomalies in the implementation of the agrarian reform law, as well as holding seminars on how to maximize the pro-peasant provisions of the law. In effect, CPAR's position had shifted from outright rejection of the law to engagement with the law's implementers.

At the same time, by the second half of 1990, CPAR's campaign to gather three million signatures began to lose steam. By early 1991, the campaign had ground to a halt.[12]

There was never a thorough reckoning by the CPAR leadership of why the coalition's parallel initiatives failed. Some key leaders now point out that the decision to launch these initiatives had been based primarily on a strong desire to keep the coalition intact, instead of on a realistic appraisal of the situation at that time. At the onset, the coalition was divided on how best to pursue PARCODE. Militant organizations like the KMP, AMIHAN, PAMALAKAYA and NFSW-FGT believed that the legislative track was no longer possible and strongly supported grassroots initiatives like land occupation. Meanwhile, the more moderate members of CPAR had become wary of engaging government in direct and confrontational actions. To keep the groups together, coalition builders moved to reconcile the two positions by literally combining them, a move that in the end proved unsuccessful.[13]

CPAR's "Two-track" Strategy to Legislate Agrarian Reform

In a way, the parallel initiatives undertaken after the passage of RA 6657 mirrored the two-track strategy CPAR developed in its campaign to influence land reform. When Congress was convened in 1987, CPAR members believed that it was possible to ensure the passage of a genuine agrarian reform law. Together with other people's organizations, coalition members marked the first day of Congress by pitching a giant tent on the grounds of the House of Representatives. Under the billowing tent, various exhibits, workshops and discussions were held to draw attention to the issues the people's organizations wanted Congress to address.

Dubbed the "Tent City for Peace," it was a form of collective action to which popular movements in the Philippines had become accustomed. CPAR, however, had little experience in the legislative arena. This was new terrain for many CPAR member-organizations, most of which had been formed during the Marcos dictatorship when few groups engaged in legislative advocacy. The inauguration of the

Eighth House of Representatives was a great challenge to the coalition whose members were skilled in extra-parliamentary actions but had no experience in engaging a popularly elected legislature. The sense of novelty was mutual. Although many of the legislators were members of the pre-martial law Congress and the Marcos-era Batasang Pambansa, they, too, found themselves in a dramatically changed political terrain and facing vigilant people's organizations like CPAR.

CPAR plunged into the legislative front with the objective of getting Congress to legislate genuine agrarian reform. It adopted a "two-track strategy" which involved *direct* intervention in Congress to influence the lawmakers and the legislative process, as well as *indirect* intervention in lawmaking through calibrated mass actions. These two tracks were called the legislative track and the mass movement track.

The Legislative Track

CPAR did not easily reach a consensus on taking the legislative track. Its members had differing opinions on whether it was possible for Congress to pass a truly pro-farmer bill during President Aquino's term. Some member-organizations like KMP and NFSW-FGT did not want to put all their efforts in the legislative arena, and cautioned the other organizations from doing so.

Notwithstanding this internal debate, CPAR seriously and effectively utilized the various formal processes and structures in Congress. The coalition familiarized itself with the rules of the legislative game, and held regular sessions to assess its efforts and map out its moves. CPAR was also able to tap the political goodwill of allies in government, the media, academe, the churches, and the NGO sector. These contacts and networks gave invaluable support in drafting the proposed bill, monitoring the developments in Congress and Malacañang, and raising funds. Allies in government included those in the executive and its line agencies who provided insights on how key government officials view agrarian reform and also constructive criticisms of CPAR's activities.[14]

1. Drafting the proposed bill

The first item on CPAR's legislative agenda was framing its own agrarian reform bill. CPAR tapped the expertise of individuals and groups from the media, academe, and various sections of government who were sympathetic to land reform. The collaboration proved to be productive. For example, members and consultants of the technical working group of the House Committee on Agrarian Reform helped CPAR translate the document "The People's Declaration of Agrarian Reform" into a draft bill. These members of the committee staff, as well as other lawyers, researchers, and academics also briefed CPAR about parliamentary processes and kept the coalition informed of crucial developments in Congress.[15] Meanwhile, sympathetic journalists were consulted on how to manage CPAR's public campaign, a crucial element in the coalition's "two-track" strategy. Non-government development organizations that helped organize the CPAR founding congress provided support for the coalition's peasant leaders. The NGO sector also helped raise funds to sustain CPAR's campaigns.

2. Getting Congress to adopt the proposed bill

With barely three months to prepare, CPAR presented its proposed agrarian reform bill during the first public hearing called by the House Committee on Agrarian Reform on August 12, 1987.[16] The coalition was off to a good start. It had a draft bill. It also had a strategically-placed sponsor in Rep. Bonifacio Gillego who headed the House committee. Soon after the public hearing, Gillego filed House Bill 400 that, except for a few provisions, carried most of CPAR's proposals. CPAR thus threw its support behind HB 400.[17]

3. Monitoring the deliberations and processes in Congress

Although the opportunities for CPAR to directly intervene in the legislative process tapered down once HB 400 passed the first reading, the coalition continued to monitor the developments in Congress. Keeping a tab on the flow of events and balance of forces in Congress was important for CPAR to calibrate its activities in the "mass movement track."

CPAR relied on a variety of sources to find out how the deliberations and processes in Congress were shaping up. Aside from the minutes and reports issued by Congress, it also regularly consulted with members of the House committee and their staff. The same technical experts who helped CPAR draft its proposed bill kept the coalition updated on how members of Congress were aligning vis-a-vis HB 400.

The Mass Movement Track

In the beginning, CPAR had planned that the legislative and mass movement tracks were to be given equal emphasis. But because events moved fast in Congress, CPAR's energies from July 1987 to December 1987 were focused on the legislative track. The coalition started to take the mass movement track only in January 1988, with mass actions peaking in April 1988, when congressional deliberations on HB 400 were nearing conclusion. CPAR accelerated its activities in the mass movement track not because it was consciously choosing one track over the other. On the contrary, it was merely adjusting its efforts in order to respond to the changing political fortunes of HB 400.

CPAR and the progressive legislators behind HB 400 chalked up important victories in the first few months of the existence of the Eighth House of Representatives. However, in less than six months, the landlord bloc in the House was able to form alliances to fortify its already stiff resistance to HB 400, which it deemed too radical.[18] On September 3, 1987, Rep. Romeo Guanzon filed HB 941 that was backed by 107 members of Congress. HB 941 sought to exempt private agricultural land from the coverage of agrarian reform, set a land retention limit of 24 hectares, and pay landowners the current fair market value of land they voluntarily offer for redistribution. Aside from filing a counter-bill, the landlord bloc also tried to throw out HB 400. To gain time to consolidate their ranks, the stalwarts of the landlord bloc — Reps. Hortensia Starke, Jose Zubiri and Jose Roño — maneuvered to delay floor deliberations on HB 400 by citing "procedural flaws" in the agrarian reform committee's endorsement of the bill.[19]

By the end of 1987, it became apparent that the landlord bloc had the upperhand in its tussle with the progressive bloc. While Gillego remained head of

the agrarian reform committee, he and six other progressive legislators were quickly outflanked by the rest of the 31-member committee that proceeded to emasculate HB 400. Still, members of the progressive bloc fought for the original version of the bill despite the combativeness the landlords in Congress. Outside the legislature, there was growing hostility against the progressive movement, some of whose leaders became targets of physical attacks, including assassinations.[20]

CPAR's mass movement track took the form of mass actions and demonstrations to publicly dramatize its demand for a comprehensive agrarian reform law and to put pressure on the landlord bloc. During one session of the House, 600 farmers who were part of CPAR visibly walked out of the floor deliberations to show their disgust over the slow progress of the agrarian reform bill. Members of the progressive bloc in the House joined the walkout.

On March 22, 1988, Gillego withdrew his sponsorship of HB 400, saying that the bill had undergone so many revisions, it was no longer the same pro-peasant bill he and his colleagues had originally submitted. The House Bill patterned after CPAR's draft proposal was now in its final death throes, but the coalition still hoped to save the situation by launching the "Agrarian Reform Express," a campaign to gather one million signatures to make clear to Congress that it should pass a pro-peasant agrarian reform law. Preparations were quickly made for a caravan that would bring peasant leaders and agrarian reform activists to different parts of the country to solicit signatures.

The Agrarian Reform Express kicked off in the second week of April 1988. Two busloads of peasant leaders and youth activists — one starting from Ilagan, Isabela in the north and the other from Irosin, Sorsogon in the south — headed toward Metro Manila. At each big town along the route, the caravan stopped for rallies and teach-ins that discussed CPAR's agrarian reform agenda and asked people to support the peasants' struggle for land. The two groups finally converged on April 21, 1988 at the Agrifina Circle in downtown Manila, where they were joined by thousands of peasants and their supporters, including members of progressive bloc in Congress. Ironically, this was also the day that Congress voted in favor of an emasculated HB 400.

Months later, on June 10, 1988, President Aquino signed the Comprehensive Agrarian Reform Law.[21]

The Impact of CPAR's Legislative Intervention

In the end, nobody was really happy with the law. CPAR rejected it, saying that its "seemingly pro-farmer provisions are canceled out or rendered meaningless by other pro-landlord provisions."[22] Specifically, the coalition objected to provisions that allowed landlords to give tenants shares of stock, rather than land. The law also diminished the coverage of land reform and allowed high retention limits that in effect excluded 60 to 90 percent of private agricultural lands from redistribution.

Similarly unhappy were members of the progressive bloc of Congress. Ironically, not even the landowners in Congress were ecstatic about RA 6657. Even now, Rep. Starke says that RA 6657 is a "confiscatory law."

There are those, however, who think that the law is not all that hopeless. Gerardo Bulatao, then agrarian reform assistant secretary was convinced that although RA 6657 has many deficiencies, it also has provisions that can be made to work in favor of landless peasants and small farmers.[23] Fr. Antonio J. Ledesma, S.J., whose Southeast Asia Rural Social Leadership Institute in Xavier University had helped CPAR's work in Mindanao, thought that the provisions for the formation of barangay agrarian reform committees would allow farmers to participate in the implementation of land reform.

Certain key members of CPAR now admit that the coalition's outright rejection of RA 6657 was not based on a critical reading of the law's provisions, but was instead greatly influenced by the "political necessity" to take an opposition stance vis-a-vis the government.[24] Some CPAR members believe that while it is true the law has many loopholes that can be used by landowners to circumvent land redistribution, it also has just as many – if not more – provisions that can benefit landless peasants and small farmers. Significant examples of these provisions are the unequivocal declaration of compulsory acquisition as the government's primary mode of land acquisition and distribution, the stringent preconditions for the conversion of farm land to other uses, and a viable land valuation scheme.[25]

Following RA 6657's passage, most of members of CPAR found themselves increasingly faced with problems on the implantation of land reform. They also increasingly realized that to be able respond to the needs of their constituencies at the barangay or community level, CPAR must equip its members with a knowledge of the law's provisions and the means they can use to ensure that the law promotes their welfare. Despite its militant rejection of the law, CPAR had the pragmatic sense to include the study of the law in its training and education program. By the time CPAR disbanded, most of its members had already started to rethink their original verdict on RA 6657, and corollarily, the meaning and full impact of the coalition's work in the legislative front.[26]

Most of the former members of CPAR have gradually changed their attitude toward the agrarian reform program and are now adopting more creative — that is, critical but less antagonistic — ways of using the government's agrarian reform program to benefit poor farmers and landless peasants.[27] This attitude is also encouraged by the performance of the current reform-minded leadership of the Department of Agrarian Reform. But the more crucial factor that caused this attitude change is the improvement in land tenure arrangements. More than two million hectares of land have been redistributed since RA 6657 was passed.

The verdict now, it seems, is this: RA 6657 may not have been the law that CPAR originally wanted, but partly because of the coalition's intervention in the legislative process, poor and landless peasants now have a strong legal basis to own the land they till. Many peasant organizations are now working to fast track land distribution before the agrarian reform program expires at the end of 1998, an indication that the coalition's efforts to legislate a pro-peasant agrarian reform program have not been wasted.

Strengths and Weaknesses

CPAR's Strengths

The successes of CPAR's intervention in the legislation of agrarian reform can be attributed to several factors, namely: strength in numbers, strength in unity, a well-defined legislative agenda, and credibility.

1. Strength in numbers

CPAR, a united front based on a single issue, was founded to ensure that the peasant voice was heard in the drafting of the agrarian reform program, first in the executive, and then in Congress. As a coalition of 12 peasant organizations with national constituencies, CPAR had the numbers to back up its demands. A major objective of the mass actions and the "Agrarian Express" was to let the legislators know that CPAR's demand for genuine agrarian reform had the backing of tens of thousands of farmers all over the country. CPAR's numerical strength was taken seriously by government so much so that in 1992, various candidates for the presidency sought the coalition's support.

2. Strength in unity

After the collapse of the peace talks between the Philippine government and the National Democratic Front in early 1987, the attacks against progressive individuals and groups intensified. The assassination of key leaders of the progressive movement and the attempts by military factions to unseat the Aquino government combined to foster an atmosphere of fear and instability.

In the agrarian reform front, the intense debate and maneuverings around HB 400 spilled out of the halls of Congress. Landowners all over the country, alarmed by the early victories of HB 400 and the show of force of peasant organizations, started to organize and consolidate their ranks.[28] Landowners and other anti-agrarian reform elements accused CPAR of fronting for the underground Left.

Because CPAR was a coalition of organizations with diverse political orientations and traditions, it was able to fend off the attacks of landowners and other anti-agrarian reform elements that it was merely a communist front. CPAR was also seen as a genuinely consensus-oriented coalition where moderates have as much say as radicals. This helped draw the support of elements from politically moderate sectors, which in turn helped to neutralize attacks from conservative elements.[29]

To promote internal unity, the coalition set up structures and processes to facilitate consensus building, and to ensure that debates and misunderstandings do not lead to organizational paralysis. Aside from the meetings, forums and workshops, CPAR also held celebratory parties and other light, social activities to encourage candor, as well as to build friendship and personal ties, among its members.

3. Well-defined agenda

Although some of the members of CPAR had fundamental differences about long-term goals and issues dealing with strategies of social change, these differences did not diminish CPAR's impact on the legislative process. On the contrary, the coalition's credibility was enhanced by its ability to hold together different groups with differing long-term goals and objectives. The coalition had a well-defined policy agenda, embodied in its "Declaration of Principles," as well as a clearly defined strategy of engaging the legislature. This clarity in "common purpose" was very important in keeping the coalition intact and focused on the legislative arena for almost one year.

4. Credibility

Although many of its member-organizations were publicly perceived as "too radical", "biased against government" or "unreasonable," the coalition itself was perceived as a credible organization. This credibility was bolstered by its image as a genuine "coalition of equals" where radicals and moderates co-exist and work together. Having a well-defined legislative agenda also enhanced CPAR's credibility and positive image not only among legislators but also among other sectors that had an impact on public opinion.

CPAR's mindfulness of certain "standard operating procedures (SOPs)" also made it more credible. The SOPs that it observed in dealing with Congress were regular assessment and planning sessions, research, feedback gathering, and role-playing. Observing SOPs promotes thoroughness, which is important when dealing with powerful centers of power like the legislature. CPAR's representatives, for instance, always came prepared when meeting with government officials; they made sure they knew the agenda, the issues, and who would be attending.[30] Sometimes, the coalition held role-playing exercises to prepare for meetings.

CPAR's Weaknesses

The factors that contributed to the limitations of CPAR's impact on legislation were external rather than internal. Given the considerable political clout of landowners and their all-out efforts to block agrarian reform legislation, there was very little that CPAR could have done by way of direct intervention to prevent the inclusion of anti-peasant provisions during the floor debates on HB 400. If anything, the success of the conservative bloc in mangling the original version of the bill was merely a reflection of the progressive bloc's weak position in the power structure of Congress. When it came down to dividing the House on the agrarian reform bill, the progressive bloc was in the numerical minority.

Still, there were other ways of indirect intervention that CPAR could have opted to use to parry the efforts of the conservative bloc in Congress. One way was to pressure legislators through their local constituents. As a rule, congressmen, who are elected at the district level, are not very sensitive to national opinion unless they plan to run for a nationally-elected post. The congressional district is an important area of engagement for electing progressive officials and putting pressure on conservative incumbent officials.

CPAR's Agrarian Reform Express was a form of engaging the local constituents of the legislators, but this was part of the last ditch effort to save HB 400, instead of a methodical and consistent engagement. In fact, mounting a campaign to engage the congressional districts was never even an option for CPAR. The coalition needed to concentrate it efforts at the national level because of the very short "window of opportunity."[31]

Conclusion

People's organizations and other members of civil society stand to gain from studying and learning from the experiences of CPAR which, despite the controversies surrounding its break-up in 1992, remains one of the more successful coalition projects in the last ten years.[32] The current socio-political environment may be different from the environment in which CPAR operated, but the need for civil society to assert itself in all spheres of power and governance is perhaps even greater now.

ENDNOTES

1 There are as many "theories" about what caused CPAR's break-up. This version is shared by a number of the key individuals interviewed by this writer, notably Dinky Soliman, former coordinator of CPAR's national secretariat, and Manny Quiambao, former KMP organizer and political officer. PRRM's Isagani Serrano who was also a member of the first working committee for CPAR had a slightly different but more interesting thesis: CPAR had outlived its purpose.

2 Cesar P. Cala, "Synthesis: Scan of Themes in Coalition-Building," Cesar P. Cala and Jose Z. Grageda, (eds.), *Studies on Coalition Experiences in the Philippines* (Quezon City: PCJC-HRD, 1994).

3 Jose Z. Grageda, "Congress for a People's Agrarian Reform," Cala and Grageda (1994). Grageda's article gives a broad view of the activities and achievements of CPAR, and touched on some of the organizational issues that precipitated its collapse in 1992. However, the article, which was published in 1991, gave no hints that the coalition was already in deep trouble.

4 Ibid.

5 Ibid.

6 Ibid.

7 Ibid.

8 Less known is this qualifier — that the petitioners should also represent at least three percent of the voters in each legislative district.

9 Both Soliman and Quiambao said that the two-pronged campaign adopted by CPAR was problematic from the very start.

10 Congress for People's Agrarian Reform, *Popular Grassroots Initiatives: Towards Genuine Agrarian Reform*, 1989.

11 *Program Impact Evaluation* (mimeographed), Peace Foundation, Inc., 1992. Peace Foundation was one of the support NGOs of CPAR and had devoted a big chunk of its resources to providing support for peasant organizations that undertook land occupation and other types of direct action to claim land.

12 Because CPAR did not formally retract its twin-pronged campaign, many of the points relating to CPAR's activities in 1991 are this writer's personal observations as a project staff of CPAR from January to October 1991.

13 This is based largely on the interview with Dinky Soliman.

14 A key government ally then was Gerardo Bulatao, former agrarian reform assistant secretary and now head of the NGO Kaisahan. Bulatao, while sometimes critical of how the coalition conducted its activities, also provided insights on how to approach certain government policies and agencies.

15 Three members of the agrarian reform committee's technical working group were also members of the working committee which organized the CPAR's founding congress: Atty. Hector Soliman, who would later join agrarian reform department, and Pancho Lara and Joel Rodriguez, then senior associates of the Philippine Peasant Institute. It was Soliman, along with the research staff of the Ramon Magsaysay Foundation, who drafted the proposed bill that CPAR submitted to the House committee. Grageda's article was the first to publicly reveal this detail. As members of technical working group, Soliman, Lara and Rodriguez did research and wrote background papers to help the legislators in the committee deliberations.

16 Tasked to make the presentations on behalf of the coalition were Laurentino Bascug of the LMMMP, Ka Memong Patayan of KMP and Dinky Soliman, CPAR's secretary general. While Bascug tackled the moral and ethical dimension of land redistribution, Patayan's presentation centered on the historical imperative of agrarian reform. Soliman, on the other hand, discussed the specifics of CPAR's proposed agrarian reform legislation and related technical matters.

17 The Kilusang Magbubukid ng Pilipinas took a different position on some of the key issues in agrarian reform, e.g., retention limit, payment to beneficiaries, etc. However, as a member of CPAR, the KMP agreed to abide by the coalition's decision to support HB 400.

18 The Eighth House of Representative's Committee on Agrarian Reform had 31 members. Those comprising its progressive bloc were Gillego, Florencio Abad, Andolana, William Claver, Garduce, Edcel Lagman and Oscar Rodriguez. Stalwarts of the landlord bloc were Hortensia Starke, Jose "Peping" Cojuangco, Jose Carlos Lacson, and Jose Zubiri.

19 Joey Flora, "Congress Deliberates on Land Reform," *Conjuncture*, October 1987.

20 Gillego was the object of slanderous attacks, seen by many as a way to obstruct his assumption of the chairmanship of the powerful Committee on National Defense. Wary of alienating the progressive bloc at so early a stage in his incumbency, House Speaker Ramon Mitra offered Gillego the chairmanship of the agrarian reform committee instead. Progressives outside the House, especially ordinary activists, experienced harassment, illegal arrests, summary execution and other forms of human rights violations. Though their perpetrators may be different groups, the assassination of progressive leaders Lean Alejandro in August 1987 and Rolando Olalia in November 1987 and the bombing of the convent where peasant advocate Bishop Antonio Fortich of Negros lived, had the combined effect of sending a threatening warning to members of the progressive movement in and out of government.

21 RA 6657 is a consolidation of HB 400 and Senate Bill 249. The joint House-Senate committee responsible for this was headed by Rep. Ronnie Zamora and Sen. Heherson Alvarez.

22 See *CPAR's Critique of RA 6657* (mimeographed), August 1988.

23 In his paper, *The DAR as an Arena in the Continuing Struggle for Agrarian Reform* (mimeographed), which was presented during the International Conference on Agrarian Reform, January 28-February 2, 1991, Bulatao argued that CPAR should engage the government in the implementation of RA 6657, because the work of influencing government policy does not end in lawmaking.

24 Quiambao, who was the representative of the national democrats in the political caucus of CPAR, agrees that RA 6657 has many provisions that can be utilized to favor landless peasants and small farmers. However, he maintains that it was impossible for CPAR to have taken a less-than-militant position soon after the passage of the law because this would have been interpreted as "getting soft" on government.

25 Section 65 of RA 6657 requires that before land that is covered by agrarian reform can be converted, land ownership must first be transferred to the beneficiary. The beneficiary may then apply for conversion but only after five years and only after having fully paid for the land. Also, DAR may allow land conversion only if the land is shown to be no longer viable for agricultural use and the areas around it are already highly urbanized. The land valuation scheme provided by RA 6657 is based on the Constitutionally-outlined principle of "just compensation." The Supreme Court interpreted this principle to mean "fair market value." CPAR had pushed for the principle of "selective and progressive compensation." This principle may be more desirable to peasant advocates, but considering the prevailing political situation at that time, a land valuation scheme based on the said principle would not have been viable.

26 Soliman and Quiambao, who often found themselves at opposite sides of the fence during many crucial CPAR debates, now concede that CPAR did not entirely fail in its legislative intervention. The two, however, differ in their view about the crucial factors that account for the pro-peasant features of RA 6657. While Soliman thinks this was largely due to CPAR's efforts, Quiambao believes there was no way Congress could pass an utterly pro-landowner agrarian reform bill because of the prevailing political situation at that time, i.e. the strong political presence of the armed underground movement.

27 This is evident in initiatives like Re-NCARRD, PARRDS, and PhilCARRD.

28 At the height of the struggle for the legislation of agrarian reform, landowners publicly threatened to take up arms should government confiscate their land. A controversial news photograph at that time showed Starke brandishing an M-16 Armalite during a meeting of Negros landowners.

29 Peasant organizations at the barangay level, however, were not as safe from harassment and political persecution. In particular, many of KMP's local chapters in remote areas were accused of being communist organizations and were forcibly dismantled by the military.

30 Roey Siron, a senior member of Rep. Oscar Rodriguez's staff from 1989-1991 and the legislative staff of the House Committee on Agrarian Reform from 1991-1995, recalls that when peasant leaders from CPAR went to Congress "they always came prepared with their position papers."

31 President Aquino had ordered Congress to legislate agrarian reform within 90 session days.

32 One of the controversial issues that divided CPAR was whether it should endorse candidates for the presidential elections in May 1992. The coalition, despite the strong misgivings of its radical wing, decided to pursue talks with presidential aspirants. Other issues relating to the handling of the agrarian reform program, resource sharing, setting up of regional CPAR counterparts, and competition among the provincial affiliates of the coalitions' member-organizations also came to the fore at around this time.

JOCELYN VICENTE ANGELES

HOUSING & BASIC SERVICES

The Role of the Naga City Urban Poor Federation in the Passage of Pro-Poor Ordinances and Policies

Introduction

With its freedom and democracy-loving people and traditionally oppositionist stance, Naga City has, for almost a decade, adopted participatory and consultative mechanisms that are intended to transform local governance into a shared responsibility of the governing and the governed. The result is a partnership between NGOs, people's organizations and the government that is marked by the people's capacity to participate in local governance and a responsive local government.

The 1986 anti-Marcos uprising paved the way for popular participation in governance. At the local level, "people power" has meant giving the poor a voice and allowing them to exercise their rights and responsibilities as citizens. Participation in governance has also provided the poor with the opportunity to be productive and to live decently, assume control of social institutions, and work toward social transformation.

It was toward this end that the Naga City Urban Poor Federation (NCUPF)[1] was formed in 1986. This study describes the NCUPF's participation in the local legislative and executive bodies of Naga City and the symbiotic relationship between the federation and the local government. It focuses on the factors and events that explain why and how policies and ordinances favorable to the urban poor were enacted by the Sangguniang Panglunsod (city council).

History of the Naga City Urban Poor Federation

On August 17, 1986, a group of urban poor residents from the barangays of Sabang, Tinago, Triangulo, Mabulo, Lerma, Panganiban, Dayangdang, Tabuco and Abella in Naga City gathered together to discuss the issues and problems confronting them. This meeting was held after a series of barangay-level consultations on the position paper presented during the National Congress of Urban Poor Organizations held in Antipolo in April 1986. The position paper focused on the repeal of Presidential Decree (PD) 772, otherwise known as the Anti-Squatting Law, and the creation of a national agency for the urban poor.

The barangay meetings resulted in the formation of ad hoc organizing committees in each barangay. In late April 1986, representatives of nine urban poor communities decided to form an ad hoc committee to prepare for the creation of a body that would embrace all the urban poor organizations in Naga City. That body became the NCUPF.

By September 1986, urban poor leaders were already involved in political activities like participation in the Task Force Peace[2]. They also took part in forums on the Constitution, where they lobbied for pro-urban poor provisions.

In July 1987, when President Corazon C. Aquino visited Naga City, 10 urban poor representatives from the ad hoc organizing committee presented a paper demanding, among others, the creation of local and national offices that will directly respond to urban poor problems and issues.

Looking back, it was evident that the organizing of urban poor communities in Naga was anchored on unfolding national events in the early years of the Aquino administration. That was a time when the nation was redefining the direction of the Philippine political system and experimenting with democracy. Urban poor leaders were able to seize that moment and use the opportunities provided by the euphoria that followed the fall of Marcos to take action on their problems and to voice out their aspirations.

In the first three years, urban poor groups conducted education campaigns on the issues confronted by their sector. The activities were mostly driven by external factors, e.g., the plebiscite on the 1987 Constitution, consultations on the Urban Land Reform bill, the repeal of PD 772 and the introduction of the community mortgage program (CMP). These were initiatives at the national level that directly affected the lives of the urban poor of Naga City. While studying and analyzing urban poor provisions embodied in the 1987 Constitution and urban land reform bill (now the Urban Development and Housing Act or UDHA), urban poor groups realized the importance of participating in the policy-making process.

In 1989, urban poor organizations began consolidating their efforts for policy intervention in the city. Through the NCUPF, they initiated the adoption of the CMP by the local government and the creation of the Urban Poor Affairs Office.

At present, the Naga City Urban Poor Federation has a total of 59 local organizations and is a member of the Bicol Urban Poor Coordinating Council (BUPCC). It is one of the pillars of the Naga City NGO-PO council (now the People's Council), which is a member of the local development council. They have three representatives in the Urban Development and Housing Board.

Forms of Intervention Used

The NCUPF has used different forms of intervention in resolving issues. These include community meetings, role playing, lobbying, mobilization, dialogue, forums, petitions and coalition-building. The dialogue approach is taken in these activities. As a veteran urban poor organizer related: "We see to it that we do not bring with us preconceived solutions to the community; instead, we draw out from the people themselves their perceptions about the problems in their community."[3] The role of organizers is to motivate people to act on the issues that affect

them. They are facilitators and motivators who work on the assumption that the apathy and individualistic tendencies of people are not of their own making but are, to a great extent, influenced by social structures that do not encourage critical thought.

Meetings

Community organizations hold regular assemblies to discuss their needs and problems and think of realistic solutions. In these meetings, the people point out issues for potential collective action. Local organizations have generally come up with two major concerns: the problem of security of land tenure and the lack of basic infrastructure and services in the community.

The Lerma Urban Poor Organization (LUPA) — one of the pioneering organizations of the federation — identified security of tenure as the priority issue. This was because some of its members were being evicted from their homes, even if they had lived there from 20 to 50 years. Through the discussions that took place in these meetings, the community was able to reduce internal tensions and increase people's awareness about their common problems.

Consultations

These are held on a periodic basis and when the need arises. Consultations are held on matters which need close monitoring like pending cases or demands brought to certain government offices. These include demands like the installation of public faucets and street lights, and the creation of a trisectoral committee for the implementation of the Urban Development and Housing Act.

Seminars

Immediately after Republic Act (RA) 7279 or the Urban Development and Housing Act of 1992 was passed, the federation held a series of seminar-workshops on the opportunities provided by the new law. Through the workshops, the federation was able to draft a resolution and to submit it to the Sangguniang Panglunsod. The resolution demanded the creation of a trisectoral committee that would ensure the implementation of the UDHA. Consequently, on July 1, 1993, the Sangguniang Panglunsod enacted Ordinance No. 93-057 creating the Naga City Urban Development and Housing Board.

Petitions

Faced with eviction from their homes because of a project of the Philippine National Railways, some 50 people from Panganiban Drive tried to present a petition letter on July 15, 1987 to the manager of the national railway authority. The letter asked the manager to suspend the scheduled eviction. The families who received the notice to vacate the area were eventually allowed to stay. Based on the community's analysis, this was because the government had decided to grant their petition.

Lobbying

As a means of confronting people in power, lobbying enables communities to ventilate their grievances. To create greater impact, large numbers of urban poor lobbyists are mobilized during hearings and sessions of the city council. Most of the pro-poor ordinances and resolutions that were enacted were, in one way or another, the result of lobbying efforts.

In September 1986, for example, about 30 urban poor residents from Mabulo went to see Mayor Carlos del Castillo[4] at his residence to present a petition for the provision of potable water to their community. Before this, meetings were held to discuss the issues identified by the residents. They decided that the lack of potable water in the community was the priority issue that should be addressed. When the urban poor handed the letter, the mayor said, "It is not my responsibility to provide water services in the barangay, it is the mandate of the Metro Naga Water District." The group's spokesperson responded, "As father of the city, we would like to seek your advice and endorsement for the petition."

The group then decided to go the manager of the Metro Naga Water District. They went there several times, and each time they talked with the manager, they were served softdrinks and given assurance that the problem would be resolved. On many occasions, the leaders refused the softdrinks offered and told the manager, "Potable water is what our barangay needs, not softdrinks." The organization then decided to bring the matter to the members of the water board. Several groups were formed, and each group was assigned to lobby with a particular board member. As a result, a general assembly was held in Mabulo where the representatives of the Metro Naga Water District and the Local Water Utilities Administration reported to the people the response to their petition. After the assembly, the officials of the water district furnished the people with a copy of the feasibility study on the possible site of a water pumping station.

On the other hand, in the community of Sabang, residents mobilized around the conviction of one of their neighbors for violation of the PD 772 or the Anti-Squatting Law. The community asked the mayor to help the convicted man for humanitarian reasons. The mayor was reluctant. He said, "You people are undermining my credibility. It is a court decision, and it is beyond my powers to intercede...you are politically motivated." In the end, the man was not imprisoned and his home was not demolished.

Dialogues and Negotiations

Communities hold dialogues and negotiations with the authorities in order to articulate their demands and show their good faith. Oftentimes, the authorities are convinced of the benefits of the communities' proposals. For example, urban poor groups invited a representative of the Presidential Commission for the Urban Poor (PCUP) to orient them on the community mortgage program. In the course of the orientation, they told the PCUP representative what their problems were, and he agreed to act on them.

A dialogue on April 22, 1989 involved the mayor, the PCUP, the parish priest and the NGOs. It resulted in the residents of barangay Lerma being named the first beneficiary of the community mortgage program to be implemented by the city

Government and the National Home Mortgage Finance Corporation (NHMFC) in Naga City.

Candidates' Forum

Inspired by past elections when candidates showed their concern for the urban poor in exchange for their support, local organizations made use of political forums for openly airing their grievances and demands. These forums also put pressure on would-be officials to commit themselves to a program that would benefit the people. In April 1992, through a series of candidates' forums involving local and national candidates, the NCUPF presented its urban poor agenda for development and asked the candidates to sign the document.

Groundwork with Council Members

More often than not, organizations identify and talk to council members whom they believe are supportive of their causes and objectives and willing to sponsor resolutions proposed by the federation or local organizations. To ensure the passage of these measures in the Sangguniang Panglunsod, the local organizations seek the support of other council members. This is usually done by way of informal consultations or formal group discussions.

Public Hearing

In some cases, a public hearing is held. This was true in the San Francisco case where the urban poor protested the demolition of their homes which was done without consultation with the community and without the provision of relocation sites or even temporary resettlement areas. Residents set up barricades and drew up a resolution requesting for more humane treatment. A public hearing was then called on the matter.

Follow-up Dialogues

Organizations normally present demands for basic social services, like pathways, water systems and street lights first to barangay officials. But since most of the officials do not exert much effort to meet these demands, the matter is then taken to the city council or any other appropriate agency. However, because of red tape, urban poor demands reaching government offices are often not acted upon without prodding from the communities.

Usually, despite constant follow-ups and patient waiting, nothing happens. On occasion, people's organizations go directly to the local chief executive to present their problems. One example of this was the unwavering insistence of barangay Tinago to have the government repair the sewage system in their area. When Mayor Jesse Robredo went to the barangay for a meeting on land tenure issues, one leader approached him to discuss the problem of sewage which caused recurrent flooding in the community. They talked right in front of the oozing sewage. Seeing the problem for himself, the mayor assured action. In about a month, the sewage system was repaired.

Factors and Events that Contributed to the Passage of Pro-Poor Policies and Ordinances

One important factor that has made possible a local government responsive to the needs of the urban poor is the character of the people of Naga, who are inquisitive, critical and civic-minded. Naga also has a tradition of citizen involvement in issues like price increases, taxes and tuition fee hikes. Local residents are open to new ideas, respect other people's opinions and recognize the principle of mutual understanding and peaceful co-existence. Forums and dialogues concerning local and national issues have been conducted by different groups in the city. In its lobbying efforts, the urban poor federation has been joined by other sectors, people's organizations and non-government organizations within and outside the city.

Moreover, the NCUPF participation in the protest rallies and other mass actions spearheaded by different political blocs, i.e., BAYAN, Pandayan and PopDem-Naga has raised the awareness of the urban poor on various issues concerning the Filipino people in general. Such involvement also exposed the urban poor to the realities of other sectors. By forming coalitions and alliances with different sectors and political groups such as Heart of Peace (HOPE)[5] and the People's Council for the Promotion of Rights and Welfare (PCPRW),[6] the urban poor also advanced their advocacy work. For example, the Peace Agenda of Nagaueños drafted by these coalitions included calls for the urban poor's right to security of land tenure and basic social services.

In addition, alliances with officials of different agencies of the government have helped pass pro-urban poor laws and facilitated the implementation of these laws. A major factor that contributed to these laws was the presence of progressive-minded officials who were willing to help people's organizations and NGOs. The progressive bloc in the city council sponsored a significant number of resolutions and ordinances. These included the repeal of PD 772 and the creation of a People's Council. These councilors also helped ensure that the ordinances are implemented by clarifying to the affected sectors the mechanisms and implications of particular provisions.

Even the more conservative members of the city council were supportive of the poor once they realized the need for specific resolutions or ordinances. Thus, urban poor groups saw the need to engage government and to direct officials toward pro-poor laws, programs and projects. This can be done through formal and informal gatherings. The NCUPF, for example, has held discussions, consultations and dialogues with council members and other supportive officials. These have helped firm up support for progressive legislation and the "Naga SPEED"[7] and "Kaantabay sa Kauswagan"[8] programs of the city government.

Mayor Robredo and progressive-minded councilors contributed significantly toward ensuring NGO-PO cooperation. "What the Robredo administration did at first was to ensure during its previous term a mechanism for maximizing people's participation in local governance. This was achieved by laying multiple channels through which specific sectors, groups or the entire constituency could participate in identifying developmental priorities and in stamping their mandate — or disapproval — on major policy issues," said one study.[9]

The mayor was undoubtedly a key figure in the entire process. Although not directly involved in legislation (as this is the function of the Sangguniang

Panglunsod), his openness to the poor has influenced the passage of pro-poor laws. As the city government's Urban Poor Affairs Office chief said, even before urban poor groups had asked the mayor to set up an office for the urban poor, he was already thinking about the idea.

On May 15, 1985, the city government, with the help of COPE Foundation, hired one person to assist in the eventual establishment of the Urban Poor Affairs Office (UPAO) and the birth of Naga City's Kaantabay sa Kauswagan.[10] On November 17, 1989, Mayor Robredo institutionalized these efforts by signing Executive Order No. 89-012 creating the Urban Poor Affairs Committee. This act was in response to the petition letter presented by nine urban poor organizations to President Aquino when she visited Naga two years earlier. That petition asked for programs that would address the sector's concerns, among them the creation of an office to deal with urban poor problems.

Other factors that facilitated the enactment of pro-urban poor policies in Naga City are:

(1) the unity of the community-based organizations and their solid stand on issues;
(2) the affordability of real estate for the projects of the local government;
(3) the mutual trust and the good relations between the city council and the members of the federation; and
(4) the financially sound status of the city government and its ability to obtain funding for urban poor projects.

Trust is imperative. As Robredo said, when asked how he reacted when urban poor protesters stormed his office: "We were never threatened primarily because our interests are basically the same, and we believe that the government's obligation is to the poor and underprivileged, while also taking into consideration other factors and parties involved."[11]

The good relations between local officials and the technical personnel of the city government, on the one hand, and the federation and the urban poor communities, on the other, have created a conducive and harmonious environment for effective and efficient partnership. The tangible results of government-NGO-PO partnership include the creation of special bodies, projects and consultative channels where all three parties participate. The Naga City Socialized Program for Empowerment and Economic Development (Naga SPEED) provided for consultative channels like the multisectoral meetings called "Orolay-olay sa Sektor"; the barangay consultative meetings known as the "Bayanihan sa Barangay"; and the expanded City Development Council.[12]

In addition, the "Kaantabay sa Kauswagan" or Partner for Development is a government-NGO-PO program whose name clearly states that the poor are partners for, rather than a hindrance to, progress. The program includes the delivery of basic infrastructure and services; a campaign against the demolition of urban poor homes; the provision of relocation sites for those who are displaced and the strengthening of urban poor participation in local governance. It also institutionalized problem-solving mechanisms through dialogues between government, NGOs, community groups and private landowners.

All these would not have been possible without the painstaking organizing and advocacy work of NGOs and people's organizations. No doubt things were

made easier by a local government that was receptive to the needs and demands of the poor. But urban poor leaders, government officials and other respondents said that even if the local government were not already receptive to begin with, the solid organization of the urban poor would sooner or later force officials to pay attention to their needs.

Eventually, the NCUPF became one of the pillars of the Naga City NGO-PO Council, which worked for the institutionalization of people's participation in local governance. The Council was mainly responsible for the passage of Ordinance No. 95-092, called "An Ordinance Initiating a System for a Partnership in Local Governance between the City Government and the People of Naga."

The May 1987 elections also contributed to the conscientization of the people and their insistence on active participation in governance. They actively participated in the candidates' forums sponsored by the Ateneo de Naga and the Task Force Peace. In the forum, NGOs and people's organizations urged candidates to adopt programs that would help the poor. They also asked candidates to sign position papers vowing that they would act in the interest of the underprivileged, particularly the urban poor sector.

Throughout their terms of office, winning candidates are reminded of the papers they had signed and the principles they had vowed to uphold during the campaign. Those seeking reelection know that they have to carry out their promises, if they want to win another term.

The vigilance of community groups and the federation ensures that pro-poor policies are implemented. The presence of urban poor lobbyists in city council sessions also forces officials to pay immediate attention to ordinances and resolutions in favor of the poor.

After the approval of the Local Government Code of 1991, the Federation submitted a petition to the Sangguniang Panglunsod, requesting them to designate the urban poor as the representative of the non-government sector as mandated in the Code. The council received the petition on March 3, 1992, the height of the election campaign period. Eager to please a large constituency, the council invited representatives from various groups to deliberations on who should be named to represent the non-government sector. Representatives from the disabled, senior citizens, and veterans groups came, as did the Mr. & Mrs. Club and the urban poor federations. In a closed door hearing on April 22, 1995, the Naga City Council approved Resolution No. 92-028, designating the urban poor sector to name a representative to the Sangguniang Panglunsod. The resolution also directed that the representative would be elected by urban poor groups within 60 days.

Earlier, on July 4, 1990, the council approved a resolution asking trial court judges, municipal courts and sheriffs be more humane in their implementation of writs of demolition. The resolution was the result of the persistent lobbying of the federation in support of 30 "squatter" families in barangay San Francisco whose homes had been demolished in June 1990. Assisted by the military, the demolition team and the sheriff destroyed the homes on a rainy day, without notifying some of the residents. This was a clear violation of the law that allows demolitions only during fair weather and only with prior notice to the residents.

Although the San Francisco residents were not members of the then newly organized urban poor working committee, their plight caught the attention of

urban poor leaders in nearby communities. The day after the demolition took place, urban poor groups trooped to City Hall and asked city officials to intervene. When the demolition team returned to San Francisco to finish their job, they were confronted by protesting residents who asked them to desist. Their plea was ignored. It was a Saturday, and the residents could not go to court to ask for an injunction. Instead, they went to the mayor, who responded by ordering a halt to the demolition.

Successes

In the decade since its founding, the NCUPF has met a number of challenges. In focused group discussions, urban poor leaders identified the various forms of participation and intervention they had undertaken on a range of issues and assessed their successes and failures in resolving urban poor problems like land, housing and basic services. They agreed that their major achievements lay in their interventions in these areas and their success in ensuring the passage of pro-poor policies and ordinances.

Land and Housing

Urban poor communities succeeded in pressing the city government to resolve questions on the age-old problem of land tenure. This was achieved through the partnership between communities and the government, beginning with the creation by the city government of the Urban Poor Affairs Office. With the help of this office, a land acquisition program through the national government's Community Mortgage Program was initiated. The on-site development strategy, which focuses on improving existing urban poor communities, rather than relocating them elsewhere, was implemented. Although not all land and housing problems could be solved this way, other slumdwellers who were relocated later on also adopted the strategy for their resettlement sites.

This was made possible through the institutionalized mechanism whereby government, NGOs, POs and private landowners conducted dialogues and negotiations. Through these dialogues, factors such as the government's capacity to help the poor, people's needs and the landowners' interest are threshed out. Often, however, private landowners prefer to talk with city officials by themselves, so they could negotiate payment. This limits the participation of people's organizations in the negotiation process. It was the urban poor, however, who demanded these negotiations, and the government merely responded.

Basic Services

Through their own efforts and with government support, urban poor groups have been able to improve their communities through the provision of sewage systems, pathways, footbridges, shallow wells, street lights, public faucets and pavements. Although government provided the infrastructure, community self-help projects provided for the maintenance and improvement of installed facilities. In some cases, residents contributed their labor, while the government supplied the materials. This form of resource-sharing ensures that people do not ex-

pect doleouts from the government and helps build the confidence of community groups.

Not all communities, however, were successful. Some failed to maintain the facilities installed and to take care of the infrastructure provided.

Intervention in Policy-making

As described above, lobbying, mass mobilization, negotiations, petitions, dialogues, forums and other forms of advocacy work have resulted in a significant number of pro-poor legislation and the creation of an Urban Poor Affairs Office to look after the needs of the sector.

In addition, the NCUPF successfully pushed for the implementation in Naga City of the Urban Development and Housing Act. As a result, the arbitrary ejection of slumdwellers from their homes was stopped, demolitions were minimized, and resettlement sites were provided. The Sangguniang Panglunsod declared 99 lots in 27 barangays as blighted areas suitable for socialized housing as mandated by the Act.

In addition, the Naga City Urban Development and Housing Board was created to give the urban poor a voice in how the local government should respond to their demands and needs. The Board lobbied for the 1992 city council resolution designating the urban poor sector as the sectoral representative to the Sangguniang Panglunsod.

Partnership with other Organizations

Various groups and organizations in Naga City formed the People's Council as a mechanism for participating in local governance. The urban poor groups played an active role in the council, which was allowed to propose laws to the Sangguniang Panglunsod. Representatives of the council are also allowed to participate in deliberations and to vote at committee-level meetings of the city council.[13] Through this mechanism, citizens have been able to participate actively both in the formulation and the implementation of policy.

In 1995, the city council passed Ordinance No. 95-092 "initiating a system of partnership in local governance between the city government and the people of Naga."[14] This effectively institutionalized popular participation in the delivery of basic services, capability-building, livelihood projects, environmental protection and other projects contributing to the economic and social well-being of the people of Naga City.[15]

Community Organizing

From small, struggling groups in their communities, the nine urban poor organizations that made up the core of NCUPF have grown. Their expansion was largely because of their militancy and their success in raising the awareness of their constituents. The assistance of the COPE Foundation was also indispensable. Although initial organizing was difficult, the perseverance of these groups paid off. Through a series of propaganda and educational campaigns, consultations and meetings, urban poor communities realized that they had to get organized if

their problems were going to be resolved. Thus, the Naga City Urban Poor Federation was born.

The federation's efforts caught the attention of Urban Poor Affairs Office which, on its own initiative, assisted in the organizing process. The NCUPF's present membership of 59 of 71 urban poor organizations in Naga, and its pioneering efforts to organize the Bicol Urban Poor Coordinating Council (BUPCC) are clear proofs of success.

Issues and Problems

While the federation's accomplishments in the provision of basic infrastructure and services, policy-making, and community organizing are commendable, the NCUPF also needs to address some internal problems and external factors affecting the organization. The enthusiasm and initiative shown by communities at the initial stage of the federation's founding appear to be declining, and some members have begun to leave community and sectoral matters to the discretion of their leaders and the city government. In some areas where land appropriation has been undertaken and land tenure has been assured, attendance in meetings has become erratic. Many members have become content in just amortizing their land and paying their monthly dues.

In addition, as officers of the federation gained more skills, the administrative capabilities of local community organizations were left behind. The identification and training of potential community leaders was neglected. Thus, the leadership bench from which the federation could draw remains shallow.

Moreover, the federation has so far not been able to implement projects that would make it financially stable. Until now, the NCUPF does not have its own office. Monitoring and coordinating activities of member organizations is likewise problematic considering the broadness of the organization and the myriad urban poor problems it has to deal with.

Government Attitude

The government has historically resisted reforms. The interpretation of laws, if not the laws themselves, has traditionally tended to be biased against the poor. For a long time, the traditional official response to urban poor problems has been the eviction of slumdwellers and the demolition of their homes. From the Marcos regime to the Ramos administration, not much has changed, as far as the demolition of slums is concerned.

Large-scale displacements of urban poor communities continue to take place despite Section 28 of the Urban Development and Housing Act, which discourages evictions and prescribes measures like adequate consultation, proper notification and provision of relocation sites in cases where relocation is unavoidable.

In addition, there is also often little assistance given to the urban poor for housing, site development and livelihood. While there have been government programs to provide housing for the urban poor, such as the construction of tenement houses, BLISS, and socialized housing projects, "housing units in these and many other projects have been too expensive for the poor to afford."[16] Because of

this, "over half of the investment in housing units has gone to upper-middle income groups".[17] In fact, one study noted, the "beneficiaries of BLISS Housing Projects...include faculty members and white-collar workers owning expensive cars.[18] Moreover, despite more than a dozen government agencies involved in addressing urban poor problems, government projects are generally uncoordinated, inefficient and inadequate. "With the national housing backlog running at 3.8 million units of housing assistance, the government admits that it can only provide 1.2 million units within the National Shelter Program (1993-1998),"[19]

Government apathy, lack of vision and inefficiency are major obstacles to reform. Neither does there seem to be a serious effort on the part of the national government to understand and address the root causes of poverty. The Presidential Commission for the Urban Poor (PCUP), which is supposed to "coordinate the speedy implementation of government policies and programs...plan and monitor programs and projects for the development of the urban poor communities,"[20] has not done much to improve the miserable condition of the urban poor in Bicol.

In the whole of Bicol, however, Naga City's experience in resolving urban poor problems stands out. While there are still a lot of problems that the city government needs to resolve — such as the need to protect the urban poor from exorbitant valuation of land and to provide employment and housing — the local government has taken big steps forward. In fact, the government's next step is to find ways that would prevent the recurrence of old problems.

The key, said Mayor Jesse Robredo, is political will, as well as the willingness to negotiate, a strong bias for the poor and a strong desire to do good things."[21] But political will, as an NGO official said, "begins with an intrinsic feeling of what or how the poor lives. There should be a clear, concise and objective understanding of the real issues besetting urban and rural poverty."[22]

Maximizing Participation

Urban poor groups should seize the opportunities available to achieve more gains and take more active part in the established consultative mechanisms, special bodies and task forces. The local development council and the Urban Development and Housing Board must be utilized to the full. For instance, there is need to push for the full implementation of the Urban Development and Housing Act which aims to provide socialized housing for the urban poor and requires developers to set aside for urban poor housing at least 20 percent of the area they develop or the amount they spend for the project.

Urban poor organizations should be more active in organizing and conducting education and advocacy work in their communities. Lobbying techniques must be further refined, especially as Mayor Robredo will no longer be allowed to seek reelection after his third term.

Moreover, although there is a city council resolution identifying 99 lots for the urban poor, this does not guarantee them a right to permanent residency. A stronger and more permanent measure is the enactment of a zoning ordinance to back up the resolution.[23] Thus, urban poor participation should not be limited to being mere partners in service delivery projects initiated by the local or national government. The urban poor must also work toward the control of their own resources.

Another venue that should be exhausted is the monthly dialogue with Mayor Robredo. In addition, the trisectoral body composed of NGOs, POs and government representatives should start assessing and evaluating the success of its programs. They should pinpoint strengths and weaknesses and adjust priorities in the context of current conditions. This way, any attempt by local government officials to bypass or railroad the process of consultation and other processes of proper governance can be checked. For now, the federation has to focus its attention on setting directions for the consultative bodies in order to maximize the gains from them even after friendly and sympathetic local officials are no longer in office.

In the long term, the challenge for the NCUPF is to prove that it makes a valuable contribution to the community and to the process of governance. As Nathan Sergio, the head of the city's Urban Poor Affairs Office, suggested: "It should have a clout not just because they are superior in numbers but because they are heard and recognized."

Traditional Politicians

For quite a long time, politicians have considered slumdwellers as a pool of votes and a reserve labor force. Once the elections are over, politicians rarely pay the urban poor any attention. On the contrary, many of them end up implementing programs detrimental to the interests of the urban poor.

Thus, it is essential that voters examine the motives of prospective leaders and politicians who often pretend to be the defender of the interests of the poor. Urban poor groups must be wary of the deceptions of politicians, and try to consolidate their ranks around those who genuinely have the interests of the poor in mind. Otherwise, the gains they have achieved may be eliminated. The Urban Poor Affairs Office, for example, may be abolished by officials not sympathetic to its concerns. Similarly, policies and legislation may be circumvented at the expense of the poor. Hence, there is a need for the federation and the people to be on guard and protect the victories they have gained. They have to be vigilant and careful, and must hone their critical and analytical faculties.

Uncertainty about Land Tenure

There is a developing apprehension among residents that have benefited from socialized housing programs that they are not assured of their stay. This is because a business boom is causing unprecedented increases in real estate values in Naga City. The proliferation of major businesses, such as food manufacturing, commercial banks, real estate developers, shopping outlets, food chains and other big companies, has made land in the city a very expensive commodity, especially in commercial districts where large numbers of urban poor communities are located. Real estate prices in the Naga City commercial district, according to the Institute of Regional and Enterpreneurial Economics, rose from a low of P6,000-8,000 per square meter in 1988 to P20,000-35,000 in 1995.

This means that urban poor residents[24] cannot afford skyrocketing real estate prices. The government, too, is in a bind, as it cannot purchase land for urban poor housing because it is too expensive. There is therefore a need to maximize the government-PO-NGO-landowner problem-solving mechanism. People's organi-

zations should also be able to devise ways to persuade landowners to sell their property at a reasonable and affordable price.

Apart from this, they must push both the local and national government to enact laws that would protect the urban poor from prohibitive land valuation. Moreover, a provision in the zoning ordinance that would classify blighted areas as permanent residential lots even though they are adjacent to commercial or industrial sites would discourage landowners from selling these areas to commercial developers.

A comprehensive ordinance that addresses land acquisition, land disposal, land use, housing, site development, provision of basic facilities and services is therefore needed. Otherwise, rising land prices could eventually result in the eviction of slumdwellers as landowners are tempted to sell their property at prevailing market rates rather than allow them to be used as urban poor settlement sites.

Organizational Consolidation

As the NCUPF matures, it becomes ever more important that it formulate a comprehensive agenda that incorporates short- and long-term plans, identifies priorities and defines appropriate mechanisms to achieve its goals. A plan of action that goes beyond land acquisition, establishment of housing units, on-site development or resettlement, and security of tenure, must be drawn up. The federation must also train more leaders in every community so that there is constant renewal.

It must be noted that the struggle is not simply security of tenure or land acquisition and housing provisions but a war against poverty. Educational and training programs are important, as are efforts to develop the management skills of people's organizations so they can better manage livelihood projects. These programs however, need careful study and must be implemented prudently.

Raising Political Consciousness

The NCUPF also needs to achieve a higher level of awareness and involvement among its membership. It is inevitable that passivity and individualism will creep in. It is therefore important to have a dedicated and patient leadership. In addition, it is necessary to be both creative and analytical in order to effectively confront the government and debunk myths that the urban poor have nothing meaningful to contribute to the community. A critique of development strategies that create poverty and encourage urban migration is also needed.

The urban poor need to more adequately comprehend the root causes of their poverty. This way, they can define the strategy they should take and their role in the community. Without such a vision, the participation of large numbers of the urban poor in political struggles cannot be sustained. In addition, the efforts of urban poor groups might be dissipated in patchwork solutions to complex social problems. Inevitably, what must be confronted is the question of what development model is most appropriate to the country and most sensitive to the needs of the poor.

Building Alliances

The networking between the urban poor and other marginalized sectors should be strengthened. Current contacts with other groups, such as the church, labor, professional organizations, academe and business should be firmed up so that tactical and strategic alliances will be easier to forge in the future. These groups can support the urban poor in pressuring the government to take a pro-people stance. They can denounce policies that are harmful to the social, economic, political and moral well-being of the people, as well as protest inappropriate government programs.

As urbanization creeps into Naga City and the entire Bicol region, the urban poor should have a close working relationship with the farmers, fisherfolk and other sectoral organizations. Prime agricultural lands in many areas in Bicol are now being converted to subdivisions, shopping malls and industrial sites. In Naga, real estate developers have converted once highly productive rice farms into housing projects for the middle class. In Camalig, Albay, 86 hectares of land planted to coconut and rice will be the site of a cement plant. Inevitably, many farmers displaced by these projects will go to the cities, swelling the ranks of the urban poor.

The NCUPF can find common ground with those displaced in various parts of Bicol. In Legaspi City, 50 urban families in barangay Bitano have been evicted to make way for a market. Given their common problems and interests, the urban poor in the region cannot afford to be divided.

Cooperation should not be limited to political support, The NCUPF needs to link up its livelihood programs with those of other groups. For example, there should be a trading system between people's organizations in rural and urban areas. Through cooperatives, POs can pool their resources and talents so that they can be made more sustainable and less reliant on government or foreign funding support.

ENDNOTES

1 Member of the Bicol Urban Poor Coordinating Council, a region-wide coalition of urban poor federations established in 1992.

2 Task Force Peace is a loose coalition of various POs, NGOs and political blocs which initiated the formulation of the Peace Agenda and the declaration of Naga City as a Zone of Peace, Freedom and Neutrality. The task force is the precursor of HOPE.

3 France Clavecillas, one of the pioneering COPE organizers who has been in Naga City since 1986.

4 Mayor del Castillo was succeeded by Mayor Jesse M. Robredo.

5 This is a coalition espousing the cessation of armed conflict and the declaration of Naga City as a zone of peace. It is composed of social democrats, popular democrats and non-aligned people's organizations.

6 Composed primarily of national democratic organizations which spearheaded campaigns against oil price increases, human rights violations and sectoral issues.

7 1995 Galing Pook awardee.

8 1994 Galing Pook awardee.

9 James Jacob, "Local Democracy: Naga Local Governance and Democratization," *Conjuncture*, Vol. 7 No. 5, February 1996, p. 9.

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HOUSING AND BASIC SERVICES

The Role of Local Governments in the Eviction and Demolition Cases of Urban Poor Residents

This research aims to provide an overview and history of the urban poor situation in Zamboanga City. It focuses on the eviction of urban poor residents and identifies the key players who figure both in these evictions and the resistance against them. This paper also describes and analyzes the different forms of intervention made by these players, who come both from government agencies and non-government and community organizations. It describes the stages and elements in the eviction process, pointing out what factors were responsible for certain outcomes.

This research also cites actual eviction cases in which the author has been involved as a lawyer for urban poor groups. The author thus had a good grasp of the dynamics and facts of these cases, easy access to pertinent documents, and contacts with the concerned urban poor leaders and their respective communities.

Profile of a City

Zamboanga is located in the south of the Philippines, at the westernmost tip of the peninsula that juts out of the island of Mindanao. It has an area of 450,000 square kilometers and a projected 1996 population of 520,000. It has abundant forest and marine resources, and the great majority of its population lives on agriculture and fishing.

Zamboanga City is considered the major commercial, transport, government, military and educational center of the entire Western Mindanao. It is a chartered city and is one of the most highly urbanized in Mindanao. It is administered by a mayor, who is the head of the executive branch of the local government. Below him is the vice-mayor who chairs the sessions of the city council, the legislative branch of the city government, which is made up of 12 councilors.

Historically, Zamboanga City has been the center of colonial rule in southern Philippines. It was used as a launching pad by colonial powers in their attempts to dominate and control Mindanao and its inhabitants. It was the seat of the military and government of both the Spanish and American forces in Mindanao, Sulu, and Sabah. As a result, it has developed a unique language and culture that is heavily influenced by Spanish colonizers.

A History of the Urban Poor of Zamboanga

At the start of the Spanish occupation in the late 16th century, Zamboanga City was populated by pagan Subanons, Badjaos (sea gypsies), and Samal Bangingi. To this fortress in the southern seas, the Spanish forces brought *indios* from the Visayas and Luzon who were members of militia bands and work gangs. They were stationed in the present-day Fort Pilar in Zamboanga City to fight the Moro forces of Sulu, Kotawato (Cotabato) and the Moluccas. Aside from the Christian mestizos of the *poblacion* (urban-commercial area), there were no known Christian settlements in Zamboanga City then.

But starting from the period of the American occupation until the late 1960s, waves of migration of lowland Filipinos from the Visayan islands came to Zamboanga City and its environs to work in the plantations established by American, European and Manila-based companies. Moreover, as a result of the American program of resettlement of landless families from Luzon and the Visayas, the migrant population increased rapidly in the countryside. Most of these migrants were able to buy or acquire land in Zamboanga City, and no noticeable urban poor communities developed during this period.

From the late 1960s to the early part of 1980s, a civil war engulfed the entire Mindanao. The war was sparked off by landgrabbing and land disputes. It eventually mutated into a religious war between the Christian fanatic cults like the Ilaga who fought the "Blackshirts," or armed Muslim gangs. Later, the war became a full-blown armed struggle for the secession of Muslim Mindanao from the rest of the Philippines. During the same period, the communist rebellion was also at its height. All these conflicts conspired to make rural Mindanao an unsafe and difficult place to live in. As a result, vast numbers of rural people from Jolo, Tawi-Tawi, Basilan, Zamboanga del Sur and Zamboanga del Norte started migrating to the urban centers, especially Zamboanga City, where they sought safety, refuge, assistance, and eventually, permanent residence. During this period, the population of the city doubled and urban poor communities started to sprout.

Due to extreme poverty, many families could not buy land in which to put up their homes. Because of the magnitude and urgency of the situation, the government could not offer them any housing or relocation. Poor families began "squatting," building shanties in open spaces near the *poblacion* — near the waterfront area, the market and the factories — since these were the most convenient places in terms of access to work, education, health care and transportation. These people now comprise what are referred to as Zamboanga's urban poor.

In the beginning, the landowners did not mind the urban poor so much. The perception at that time was that they were there only temporarily. Later, however, landowners began demanding rent for the use of their land. As they could earn incomes from otherwise economically unproductive land, landowners tolerated the situation.

But as the economy of the city stabilized and developed, the city's commercial area also had to expand. As a result, in 1987 to 1988, numerous evictions of urban poor residents took place in areas adjacent to already established commercial sites. The pace of eviction and demolition later accelerated when Manila-based business and foreign business groups began acquiring commercial lots in the city. When the national government declared Zamboanga City part of the Brunei-Indo-

nesia-Malaysia-Philippine East Asian Growth Area, a wave of road expansion, airport expansion and wharf improvements took place. All these meant even more evictions of "squatters."

At present, the creation of the Southern Philippines Council for Peace and Development, which is based in the city, and the declaration of Zamboanga City as an ECO-ZONE are transforming the city into the bustling political and economic center of the region. Zamboanga is envisioned to be the recipient of substantial foreign investments from Southeast Asia and OPEC (Organization of Petroleum-Exporting Countries). One effect of all these is that land prices are driven up, making it more profitable for landowners to sell, rather than continue renting their land to "squatters." This means more accelerated selling of prime land. It also translates into even more evictions of urban poor communities. If not handled well, the evictions due to projects supported by Muslim or Arabic countries, will create discontent among the poor majority of Zamboangueños and fuel Muslim-Christian enmity in the city.

The Law on Evictions

Article 536 of the Civil Code of the Philippines states that no person may deprive another of possession of a thing except through the aid of a competent court. Rule 70 of the Rules of Court lays down the procedures for eviction and demolition. It states that these can only take place when there is a court order. Otherwise, the perpetrator of the eviction is criminally and civilly liable.

These rules, however, have often been suspended when it came to government-initiated evictions and demolitions. Presidential Decree 1818, enacted by President Ferdinand Marcos, exempts the government, including local governments, from these rules. However, a new law, Republic Act 7279, has given urban poor residents who are facing eviction and demolition new rights. It also stipulates that landowners, whether the national or local government, should undertake the relocation of those evicted and should conduct evictions in a humane manner.

Research has shown that in eviction cases involving two private parties, a court order is always required. But when the government is the one seeking eviction, this rule does not necessarily apply. Philippine jurisprudence considers the acts of the government in evicting squatters part of its exercise of the powers of eminent domain, particularly if these evictions are done in the course of building roads, protecting riverbanks and the like.

In these cases, the government is not bound by the Civil Code. Despite RA 7297, a government agency or local government unit may, through a mere administrative order or memo, begin demolition of squatters even without prior notice. It should be noted that RA 7279 and its implementing rules and regulations are vague on whether the provisions of relocation and resettlement apply to the national or local government. Likewise, as a result of RA 7279 and the Local Government Code, all the powers over housing, urban poor relocation and resettlement, and the conduct of eviction have been devolved to local governments.

In Zamboanga City, the agency in charge of eviction and resettlement is the City Social Development and Welfare Office, which has linkages with different government agencies. These include the National Housing Authority (NHA), which

is the agency in charge of engineering and construction projects; the Housing Land and Use Regulatory Board (HLURB), the agency specializing in zoning requirements; and the National Housing Finance Corporation, the Government Service Insurance System, Pag-Ibig Fund and the Social Security System, which are financing agencies for housing projects.

The law on evictions that is currently applicable is Section 28 of RA 7279, which is quoted here in full:

Sec. 28. EVICTION AND DEMOLITION

Eviction or demolition as practice shall be discouraged. Eviction or demolition, however, may be allowed under the following situations:

(a) When persons or entities occupy danger areas such as *esteros*, railroad, tracks, garbage dumps, riverbanks, shorelines, waterways and other public places such as sidewalks, roads, parks, and playgrounds;
(b) When government infrastructure projects with available funding are about to be implemented; or
(c) When there is a court order for eviction and demolition.

In the execution of eviction or demolition orders involving underprivileged and homeless citizens, the following shall be mandatory:

(a) Notice upon the affected person or entities at least thirty (30) days prior to the date of eviction or demolition;
(b) Adequate consultations on the matter of resettlement with the duly designated representatives of the families to be resettled and the affected communities in the areas where they are to be relocated;
(c) Presence of local government officials or their representatives during eviction or demotion;
(d) Proper identification of all persons taking part in the demolition;
(e) Execution of eviction or demolition only during regular office hours from Mondays to Fridays and during fair weather, unless the affected families consent otherwise;
(f) No use of heavy equipment for demolition except for structures that are permanent and of concrete materials;
(g) Proper uniforms for members of the Philippine National Police who shall occupy the first line of law enforcement and observed proper disturbance control procedures; and
(h) Adequate relocation, whether temporary or permanent: PROVIDED, HOWEVER, That in case of eviction and demolition pursuant to a court order involving underprivileged and homeless citizens, relocation shall be undertaken by the local government unit concerned and the National Housing Authority with the assistance of other government agencies within forty-five (45) days from service of notice of final judgment by the court, after which period the said order shall be executed: PROVIDED, FURTHER, That should relocation not be possible within the said period, minimum daily wage multiplied by sixty (60) days shall be extended to the affected families by the local government unit concerned. The Department of Interior and Local Government and the Housing and Urban Development Coordinating Council shall jointly promulgate the necessary rules and regulations to carry out the above provision.

The Dynamics of Eviction and Relocation

Eviction and relocation are two very different processes, but they are directly linked to each other. One may have an eviction case without a resulting relocation, although a relocation of urban poor residents presupposes a prior eviction case.

Secondly, despite the expressed legal prohibition, not all urban poor eviction is the result of a court order. This happens because of many reasons. Urban poor residents may not be aware of their legal rights and simply follow the commands of the landowner or the government agency concerned. Sometimes, coercion, intimidation or actual force is employed or leaders are paid off. It is also possible that negotiations are made between the government and the residents who then agree to peacefully move out of the contested property.

Eviction

During the eviction stage, the two contending parties are the urban poor residents and the landowner. This situation can sometimes be complicated, especially when the urban poor residents are unorganized or are represented by different leaders or groups, or when the contested property is owned by several landowners. Lawyers, NGOs and Church groups as well as prominent political personalities are secondary actors in this process; they can either facilitate or delay the eviction.

Legally speaking, eviction comes in two stages: first, the Katarungan Pambarangay stage and second, the court stage. In the first stage, the barangay captain or his deputy acts as the mediating officer and tries to amicably settle the case, either by trying to convince the squatters to peacefully vacate or to convince the landowners to sell or allow a longer lease on the property. If this intervention fails, the Katarungan Pambarangay issues a certificate to file, which means that the jurisdiction of the case is transferred to the courts.

In the second stage, the judge of the Municipal Trial Court or City Trial Court hears the case. Eviction cases (legally known as forcible entry or illegal detainer cases) are under summary procedures, which means that no actual hearing is normally conducted. Both parties merely submit position papers, and the judge resolves the case based on the documents.

It is noteworthy to recognize the fact that under current laws, aside from the civil procedure described-above, a criminal case may also be filed against the squatters.

The case heard at the municipal or city trial court may be appealed to the Regional Trial Court (RTC) and may be further appealed to the Court of Appeals and the Supreme Court. The higher the case is appealed, the longer the delay in the eviction. The capacity to sustain an appeal depends on the availability of funds and the level of organization of the squatters.

Ninety-nine percent of all cases of eviction against urban poor residents are decided against them, and assuming a normal path, once the case is decided and not appealed within 15 days, the judgment becomes final and executory.

The documents of the case are then remanded to the court-a-quo (meaning the original court), the municipal or city court, and the motion for the issuance of

a writ of execution may be filed. If the squatters refuse to obey the order "peacefully," the court may issue a special writ of demolition.

The case now enters the phase of forcible eviction and demolition, wherein the landowners ask the forces of the State to forcibly destroy the houses of the urban poor residents on his property.

As a matter of procedure, however, a writ of execution or possession may be issued by the court pending appeal since eviction cases are considered "immediately executory." This is the moment where the issue of relocation arises.

Relocation

In the relocation stage, the two primary parties involved are the urban poor residents and the mayor. The issue of relocation already exists at the start of the case of eviction, but its need becomes urgent once the case is decided against the squatters and a Writ of Execution, Possession or Special Order of Demolition is issued by the Court.

Section 28 of RA 7279 is very clear on the time when actual forcible eviction may be executed, only after 45 days from service of the notice of final judgment by the court and 30 days after actual notice of eviction is served. Moreover, forcible eviction can only take place from Mondays to Fridays, during regular office hours and during fair weather.

While the process of eviction is a legal one, the process of relocation is essentially a political one. This stage is characterized by a lot of negotiations, dialogues and mass mobilization. Media exposure and public sympathy are critical in making the mayor move and act to protect the welfare of squatters. It is this factor which NGOs or POs may maximize. Due to the nature of elective office, a controversy that erupts during an election or campaign period generally turns out in favor of the urban poor.

The mayor holds the key to the relocation, and his office is the focus of all metalegal or paralegal actions. The level and capacity to influence the office of the mayor is the determinative factor at this stage.

The exception is when the landowners agree to relocate the squatters themselves. However, based on the law, the burden of responsibility to relocate rests on the local government unit, not on private landowners.

This, however, does not apply when the landowner is a government agency, the city government or the national government itself, and when the eviction is a result of the exercise of the State's police or eminent domain powers. In this case, the parties involved are the head of the national government agency or mayor or even the Philippine President against the urban poor leaders and their organization.

Incidentally, when the landowner seeking eviction is a private party, he is the one who goes to the court to ask for eviction. However, when a government entity seeks eviction, it is normally the squatters who go to court to stop it.

Usually, at the time of relocation, most resettlement areas have no electrical lines, sources of potable water, or road network, although the law says there should

be adequate services provided for evicted squatters. Thus, once they have been resettled, urban poor residents have other issues to tackle and resolve.

Lastly, the relocation site, although already occupied by the squatters, is still legally and technically not titled under their individual names. The process of owning the land on which they live, either through grants or payment of monthly amortizations, and accomplishing the paperwork involved are arduous and time consuming.

Many times, because of the lack of services or their inability to pay monthly amortization or find a source of livelihood, many of those who had been relocated abandon or sell their lots or rights to third parties and return to the city as squatters. Legally speaking, this kind of residents who sell their resettlement lots or rights are now called, by virtue of RA 7279 and other laws, "professional squatters." As such, they are now ineligible to become beneficiaries of RA 7279 and its allied programs and can no longer have the right to reside in a relocation or resettlement area.

Interventions

Once the decision to evict has been reached by the landowner or the government, the owner of the land generally tries to convince the squatters to vacate and voluntarily demolish their houses. Usually, the landowner offers a monetary reward for peaceful and voluntary demolition before he goes through the process of filing a court action or the actual eviction. However, it is not rare for landowners to employ threats or even use actual coercion and force. Sometimes, violence takes place, with goons, soldiers or police personnel being used to expedite the eviction. This often takes place when the urban poor community is weak, small, and unorganized.

During both the eviction and relocation, the urban poor may choose to intervene in the following ways:

I. Resistance through peaceful means

A. Extra-judicial/Paralegal actions
1. Consultation/education-lecture/mass gatherings;
2. Petition signing or request for assistance directed to government agencies or local government units;
3. Advocacy campaigns through leaflets, posters, lectures, and other means to show their plight to the general public and to seek support;
4. Inviting key government officials to urban poor activities or visiting key officials in their homes or offices;
5. Lobbying for legislative action;
6. Media advocacy through press releases and press conferences;
7. Mass rallies, pickets and other street actions;
8. Negotiations;
9. Legal actions
   a. Civil action
      i. Katarungan Pambarangay
      ii. Court action
   b. Criminal action

II. Resistance through other than peaceful means

A. Defensive Resistance
  1. Anti-eviction resistance
    a. Human and other barricades
    b. Destruction of equipment
    c. Active/violent resistance
B. Offensive Resistance
  1. Limited and specific violence
  2. Open political action

Experience has shown that the urban poor can respond in three ways: the first is to face the landowner or the government agency in court; the second is to resort to metalegal actions that will generate public sympathy for the urban poor and force political leaders or high-ranking government officials to intervene; and the third is to take violent action against the landowner or government officers involved.

The experience of the urban poor has demonstrated that the most effective method to counter an eviction or demolition case and to force government to work out resettlement is to combine legal court action with organized mass actions.

Organized mass action does not mean purely street demonstrations or pickets. Often more effective are mass dialogues and mass lobbying with the mayor, councilors, officials of other government agencies like the HLURB, NHA and the Presidential Commission on the Urban Poor.

Organized mass actions should be directed to yield concrete and tangible results. The most significant would be a written agreement or memorandum signed by either the mayor or landowner granting certain concessions to the urban poor. Written documents are more legally binding and could be a basis for a court action. In that way, the urban poor get better news reports or verbal pronouncements on radio or TV.

Most of the time, local governments become concerned only if urban poor groups resort to metalegal means, e.g. rallies, dialogues, press conferences, pickets, etc.

Such actions, however, rarely take place unless there is a working or formal organization in the community. Also needed are resources and funds to finance these actions. Experience in these forms of mobilization also helps. More often than not, urban poor groups can ask NGOs to provide the resources and the expertise.

Thus, the role of NGOs, apart from helping set up relocation sites, is help urban poor organizations focus their attention to interventions that would yield results, such as actions geared toward local officials, particularly the mayor and financially support said acts.

Lessons Learned

1. Unless the State or the local government is made a party to the court action, it cannot intervene. Neither can the city government nor any of the national government agencies stop or prohibit the execution of a demolition order issued by a court.

2. In eviction cases involving private parties, the State intervenes mainly to act as a mediator between the opposing parties in a case. It may call a meeting of the parties for a negotiated settlement by offering the following terms:

a. The local government can facilitate the titling of the contested lot. It can also give discounts on real property taxes or shoulder the subdivision and survey expenses if the landowner agrees to postpone eviction, accepts compensation, or finds a relocation site for those who would be rendered homeless. As an added incentive, the local government can also offer to the landowner road improvements, electrical lines, water connections and telephone lines.
b. The local government may also seek to preempt the sale of the contested lot by declaring its intention to buy the lot either through negotiated sale or through its power of eminent domain. Or, it may simply facilitate the acquisition of sale of the lot by the NHMC, PAG-IBIG or any other government financial institution, which will then resell the property to the urban poor residents.
c. The local government may, on its own initiative, buy, develop and distribute relocation sites for the evicted residents, who then purchase the land on installment basis.
d. The local government may also ask the police, the engineering office or other agencies to withhold support to a demolition order, which in effect, will make the order ineffective.
However, a mandamus case or an order from the court can easily change this situation and compel the government to obey, or else face contempt charges. In eviction cases involving private parties, local governments cannot undertake extra-legal means to evict residents. However, when a government agency or local government office is the one evicting residents, violent evictions are sometimes resorted to and justified because they represent an exercise of the police power of the State.

Actual Cases

Camino Nuevo

This case involves a landowner who filed an eviction case against 19 out of the 116 urban poor residents residing in a one-hectare lot just adjacent to the commercial area of Zamboanga City. The case was filed in 1982, and it went all the way to the Court of Appeals. The squatters lost, and the decision became final and executory in the middle of 1992.

Most of those to be displaced were migrant Visayan workers who came to Zamboanga City in the late 1950s and 1960s. They were employed as port laborers, tricycle drivers, salesladies, janitors, security guards and household helpers.

The residents were paying P20 to P50 rental for staying in the property. But in order to have a cause for taking legal action, the landowner refused to accept rent payments for six months. Then, he filed an eviction case for non-payment of rent. Due to ignorance, the residents were not able to respond immediately, and they lost the case.

It was fortunate that by the time the order for execution was issued in 1993, an NGO had already organized the community, which then started issuing press

releases and leaflets and holding lectures in schools. Their activities culminated in a street demonstration in front of the City Council building and City Hall. The residents also put up a human barricade: the women in the community blocked the demolition team with their bodies. Those who took part in the barricade were later arrested and detained for six hours. But the media coverage and public sympathy they generated was so strong that it compelled the city government to intervene.

In the end, the city government promised to purchase a relocation site for the residents. Unfortunately, due to the political rivalry between the mayor and the city councilors, it took three years before the promise was fulfilled.

The residents are now in a resettlement site in Mampang, Zamboanga City. But they do not have water or electricity; and as they have not obtained titles to the land, their tenure remains insecure.

Upper Calarian

In 1992, when both the national and city governments decided to develop an "ecozone" in Ayala, Zamboanga City , a barrio 15 kilometers from the poblacion, they began widening a 10-kilometer stretch of road from Lower Calarian to Ayala.

Although the highways department was the lead implementing agency of this project, the City Engineer's Office was given the task of evicting and demolishing squatters' shanties near the road. Close to 100 urban poor families occupied both sides of the two-lane highway in Upper Calarian, and they were given notice to vacate the roadside as the highway was going to be widened to six lanes. But due to the active lobbying of the residents, the City Council issued a resolution ordering the City Engineer's Office to stop the demolition pending the identification and development of a relocation site for the families.

The site of the demolition fronts are the headquarters of the Southern Command of the armed forces. Most of those affected were military personnel who had put up stores, restaurants and other business activities on the road fronting the camp. Because many of the residents had firearms, and it was feared that the eviction might result in a shootout, City Hall dealt with the problem with great caution.

But there was pressure to resolve the impasse, as President Ramos himself, in a May 1995 visit, had ordered the demolitions. The squatters were given until July of 1995 to vacate peacefully. In response, they filed a court petition to stay the demolition. The petition was denied because of Presidential Decree 1818, which prohibits any court injunctions on government projects.

Negotiations were made, and the city government agreed to let the residents to stay as long as their homes were moved 8.5 meters from the center of the highway.

Sta. Cruz-Tetuan Highway

Most of the residents who live in this area are Muslim Tausugs who sought refuge in Zamboanga City after the burning of Jolo town at the height of the Moro rebellion in 1974. Cesar Climaco, then city mayor, negotiated with the landowner

to allow the families to stay there temporarily. At that time, the barangay of Sta.Cruz-Tetuan Highway had little commercial value.

Since then, however, the property has been sold. The owner, who had moved to the United States, asked his lawyer to file a notice of eviction with the court. He also allotted funds for the relocation of the displaced families. The landowner's agent, however, did not handle the transactions properly. The money for the residents were "lost." As no provision was made for a relocation site, the urban poor community resisted demolition and refused to leave the property.

But through anomalous and irregular court proceedings, the landowner's agent was able to get a demolition order in November 1994. Within five days, the order was executed by the sheriff and the policemen. The situation became tense. It got to the point when the house of the lawyer for the urban poor residents was bombed while he was in Manila contesting the court order at the Court of Appeals.

The residents were finally relocated to Boalan, Zamboanga City and received no assistance from the city government. Due to the confusion and people taking advantage of one another, many of those displaced were not able to claim their lots in the new relocation area. Other parties entered the fray, depriving legitimate residents of a new site for their homes.

Two years after, there was still no electricity or water in the area. Residents resort to illegally tapping into the electrical connections of neighboring houses.

Observations and Proposed Actions

In cases involving private parties, the local government's only role in the ejectment case is during the actual demolition itself. But in the relocation process, the local government is crucial in providing basic social services and infrastructure, and eventually, in titling the land to its occupants.

Experience has shown that no amount of politics or metalegal actions will stop an eviction case. The most these can accomplish is to delay the actual eviction so residents can negotiate for better terms. The law favors the landowners, and it is they who decide whether to evict or not. In fact, government officials or NGOs who intervene in this process may even be held legally liable.

Section 28 of RA 7279 states that it is the local government's role to provide a relocation site, whether permanent or temporary, to urban poor residents evicted from their homes. But an organized and strong urban poor community can compel landowners to purchase the relocation site and provide displaced residents with "disturbance pay" or "social-cost."

Since 1992, when RA 7279 was passed, the Zamboanga City government has only been able to purchase two relocation sites which can accommodate only some 500 urban poor families. Most of the others who had been evicted had to fend for themselves without any government help.

In the final analysis, therefore, the mayor plays the primary role in the implementation of the law and the provision of relocation programs. Nothing moves in the city government without the mayor's conformity and support. Thus, the mayor's character, his political outlook, and his estimation of the popular pulse determine whether urban poor communities are going to get assistance.

The bottomline is that the mayor will only use his office for the welfare of the urban poor if they can demonstrate their strength and voting capability. This they can do by showing evidence of the following:

A. Internal Organizational Strength
   1. Organizational strength and capability;
   2. Size and scope of members;
   3. Level of influence on their members;
B. High Level of Public Sympathy
   1. Linkages with professional sector;
   2. Alliance with and support from the Church;
   3. Alliance with and support from the media;
C. History of Support to Winning Candidates

To sustain the interest and attention of the mayor and other local officials, urban poor groups must launch continuous actions, not only during eviction and demolition periods, but all year round.

Reflections

The issue of the urban poor is a historical one. But it is one that the Philippines must face increasingly as it enters the 21st century. The migration of the rural population to urban centers will escalate in the age of globalization and the integration of world economies.

Potable water will become an increasingly scarce resource, and it will be one of the biggest factors in determining the sustainability and viability of a population in a given area, particularly an urban poor area.

For an urban population to sustain itself, national and city governments must undertake a more holistic and visionary development planning. More importantly, the need for a more equitable distribution of wealth among the rural and urban population has to be addressed.

Squatters must be viewed as the result of historical and structural, as well as global forces. The Philippines is now a society where the majority of the population are landless, homeless, or insecure about the possibility of losing the roofs over their heads. Demolition and eviction create discontent.

There are no easy solutions. The amount of organizing work that needs to be done among the urban poor is enormous, involving millions of people. Relocation and resettlement are expensive undertakings that today cannot be done on a large enough a scale to meet the need.

In the end, in order to push this agenda, the urban poor need to share political power if government is to incorporate their needs and concerns into its list of priorities.

CRIME & HUMAN RIGHTS

People of the Philippines vs. Crimes *CAAC-MRPO, the Criminal Justice System and the Fight Against Crime*

Introduction

The popular struggle that brought about the downfall of Ferdinand Marcos opened up the democratic space in the Philippines and allowed non-government organizations to grow and proliferate. These NGOs work on pressing social concerns that the government cannot adequately address.

The two NGOs that are the subject of this paper — the Movement for Restoration of Peace and Order (MRPO) and the Citizens Action against Crime (CAAC) — are at the forefront of the fight against criminality. They are examples of cause-oriented groups that have taken remedial action in areas where the government has fallen short of expectations. Their very existence shows that the government has so far failed to effectively address the problem of criminality.

This report discusses the current crime situation and explains why the CAAC and MRPO continue to exist. It explains the long-term vision that guides these groups and their agenda for reforming the criminal justice system.

The Current Crime Situation

When the CAAC and MRPO were founded in 1993, their members thought that they would be short-lived groups. They thought that once they had voiced out their concerns, the peace-and-order situation would improve and their existence would have been rendered irrelevant. Unfortunately, this turned out to be wishful thinking. Not only were the CAAC and MRPO members forced to continue their work, they were also obliged to do even more as the crime situation worsened (See Annex 1).

Since then, many other groups have taken up the issue of crime, an indication that the problems persist. Bigger and more influential groups like the Makati Business Club, Bishops Businessman's Conference (BBC) and Philippine Chamber of Commerce and Industry (PCCI) have spoken up against rising criminality. In addition, associations of residents like the UPAC (United Pasig against Crime) and the FORA (Federation of Residents Associations) have added their voices to those of the CAAC and MRPO.

The crime rate remains high. The best gauge is that citizens feel that they are not safe in their own homes, much less in the streets. Kidnappings continue to take place, with the latest one more daring than the last. Even at their height in 1992 and 1993, kidnappings were not as brazen as they were in 1996, when many victims were killed. From 1992 to 1996, 55 kidnapping victims were slain by their abductors. In August to September 1996, there was an average of three kidnap victims a week. It is a myth to think that most of the kidnap victims are Chinese-Filipinos. Victims include many who are non-Chinese, but who also prefer to remain quiet and refuse to cooperate with the authorities.

Although bank robberies have decreased in recent years, cargo hijacking has gone up drastically. This is because crime syndicates have found that the hijacking of cargo is easier and more lucrative. Cargo trucks are usually manned by just a driver and one or two companions, usually unarmed, while their cargo could be worth hundreds of thousands or several millions. Hijacked cargo has ranged from steel bars and antibiotics to rice, shoes and milk. High-ranking law enforcers were named as suspects in a recent spate of hijackings.

Deteriorating peace and order has adversely affected the business climate and discouraged both domestic and foreign business activities. But despite widespread concern about rising criminality, the so-called "five pillars" of the criminal justice system — law enforcement, prosecution, courts, correction and community involvement — suffer from poor credibility and inefficiency. Moreover, these pillars often work in isolation from, instead of in harmony with, each other.

The first pillar — law-enforcement — remains among the weakest. Law-enforcers are hampered by lack of funds, equipment, and training. While criminals use mobile telephones and sophisticated radio transceivers, some police precincts do not even have phones. While the kidnappers' get-away cars are Pajeros and Nissan Patrols, police operatives use battered 1980s Toyotas and Lancers to pursue them.

Worse, when the police succeed in arresting criminals, conviction cannot be assured, especially if the criminals are influential and the investigation conducted is below par, either by design or simply because fiscals are overworked, underpaid, poorly trained and undermotivated. Moreover, government prosecutors have to contend with high-priced lawyers for the defense. Often, they are also ranged against corrupt judges.

In various forums and consultations with law-enforcers and court personnel, the CAAC and MRPO have observed that the existing system seems to protect the criminals more than the victims. Citizens are discouraged from filing cases because of the common perception that they would not prosper anyway and that they have to spend a fortune to go to court. The CAAC and MRPO have been frustrated by kidnapping cases in which judges throw out the charges purportedly for lack of evidence. For example, Edward Chang, one of the country's most wanted criminals who had a P600,000 reward on his head, was acquitted in 1994 after painstaking efforts by the police to capture and put him on trial, and after he himself had admitted to 15 cases of kidnappings.

Kidnappings continue to menace the citizenry mainly because the criminals and their masterminds can easily get away with their crimes. Moreover, kidnap-for-ransom syndicates are difficult to neutralize because they are often protected, if not made up of, retired, AWOL or even active law enforcers and military officials.

In fact, in the last few years, the heads of anti-kidnapping task forces were themselves implicated in kidnappings. In hijacking cases, active members of the police force were implicated.

Citizens have no weapons against well-organized, well-funded, well-informed, well-armed, and often well-protected syndicates except to increase their vigilance and alertness and to continue calling attention to crime as a national problem. Indeed, recent surveys have shown that 46 percent of those polled say that they had been victimized by crime. In June 1995, survey respondents gave the government's performance in fighting crime a negative satisfaction rating of -22 percent.

History of the MRPO and CAAC

The MRPO

The Movement for the Restoration of Peace and Order (MRPO) was organized in January 1993 in the face of escalating kidnapping incidents. The catalyst for the movement's formation was the death on January 7 that year of 15-year old kidnap victim Charlene Sy, who was killed when law-enforcers engaged her abductors in a shootout.

The MRPO was formed initially to mobilize angry citizens for the protest timed for Sy's funeral on January 13, 1993. The MRPO's clarion call was, "After Charlene, Who's Next?" and it was meant to awaken the citizenry to the reality that unless action is taken to stem criminality, anyone can be a victim.

The MRPO is based in Binondo, Manila's Chinatown district, and is made up of volunteer groups and individuals. Its core group is composed of Kaisa para sa Kaunlaran, BATAS, Kong Han Athletic Group, Garments Manufacturers Association, Furniture Wholesalers' Association, Electrical Supplies Association and various Volunteer Fire Brigades.

The MRPO has also established linkages with other anti-crime groups like the Citizens Action Against Crime, Konsyensyang Pilipino, Crusade Against Violence and Kalayag Foundation, and with communication groups like the Kalayaan group. Lately, it has also networked with academic and business groups like the Ateneo Human Resource Center and Ateneo Human Rights Center, the Evelio Javier Foundation, Philippine Chamber of Commerce and Industry, Filipino-Chinese Chambers of Commerce and Industry, Makati Business Club, Bishops Businessmen Conference, various other school groups and others.

The MRPO is essentially a crimewatch group that monitors kidnappings and tracks what happens to the victims and suspects. It assists crime victims particularly in court cases. It also tries to improve the efficiency and effectiveness of the criminal justice system and to be a vigilant watchdog to ensure that the anti-crime campaign is sustained. The MRPO encourages communities to engage in crime prevention through such activities as forming volunteer patrols and lighting up streets.

The CAAC

The Citizens Action against Crime (CAAC) is a Metro-Manila-based non-government organization composed of private citizens active in anti-crime work. Founded on February 16, 1993, its main objectives are to push for reforms in the criminal justice system and to educate the public on crime prevention, the workings of the justice system, and their rights and responsibilities as citizens.

The CAAC's core group consists of 20 individuals and its supporters number approximately 500. These supporters come from a network of organizations with which the CAAC works very closely. These include the MRPO; the Zonta Club of Ayala, based in Makati; the Community Policing Action Group based in Quezon City; the Movement for a Gunless Society; Stop Trafficking of Pilipinas; Evelio Javier Foundation; the Institute of Urban Poor; Cubao Retailers Association; Konsyensyang Pilipino; the Human Resources Center and Human Rights Center of the Ateneo; and the Concerned Women of the Philippines

CAAC is recognized and accredited by the National Police Commission (NAPOLCOM) and the Philippine National Police (PNP) as a member of the community pillar of the criminal justice system and is represented in all the technical working groups created by the NAPOLCOM after the First National Peace and Order Summit on February 15 and 16, 1993.

Initially, the CAAC thought that through membership in the technical panel of the NAPOLCOM, it could push for reforms and network with the five pillars of the criminal justice system. One member is represented in the law-enforcement pillar, another in the prosecution and a third in the courts pillar. The members assiduously attended regular monthly meetings and other special meetings and committee deliberations.

But in December 1995, the CAAC decided to resign from the technical panel. In a letter to Interior and Local Government Secretary Rafael Alunan, the CAAC lamented that its participation in the panel was an exercise in futility. It said that it sensed no urgency among government members of the panel to push for reforms and that the recommendations of the first peace and order summit were hardly followed through. It concluded that the presence of NGOs in the panel was not a meaningful one and that it was only being used to show that there was community participation in the post-summit follow-ups. The CAAC said that the NAPOLCOM technical panel might not be the best mechanism to push the summit recommendations.

Activities of the MRPO and CAAC

The efforts of the MRPO and CAAC focus on education and consciousness-raising. These are geared toward two objectives: first, to make the public aware of their roles, duties and responsibilities in the administration of justice; and second, to pressure government to put more effort in its peace-and-order campaign. Since their founding, these two organizations have conducted high-profile protest actions that brought the issue of criminality to the attention of officials and a broad public. They have also organized public forums and appeared in the media. In addition, they have printed posters specifying rewards for the most wanted criminals and networked with organizations concerned about the peace-and-order situation. For selected cases, they have conducted a sustained court watch. This has

resulted in the successful conviction of those involved in three kidnapping cases. The CAAC and MRPO maintain a "kidnap watch" to monitor kidnappings. They also have hands on experiences in assisting victims of kidnappings. Among their activities, these groups distribute fact sheets on how to minimize chances of victimization and what victims and their relatives should do when an abduction takes place.

The current activities of the MRPO and the CAAC include:

- the *Koban*-Adopt-a-cop project in various barangays;
- the dissemination of leaflets containing tips on how to avoid being a crime victim;
- networking with other anti-crime NGOs;
- educating the youth on the criminal justice system through anti-crime campaigns conducted in schools like De La Salle University, Ateneo de Manila University, Pasay Chung Hwa and other Chinese schools;
- monitoring violence in the media, especially programs that glorify criminals;
- media campaign, in the form of press releases, open letters or statements, appearances as resource persons on radio and TV to heighten people's consciousness about the problems of criminality;
- raising the consciousness of victims and their families on the need to cooperate with authorities in reporting crimes and pursuing cases in court;
- maintaining a regular kidnap watch and calling the attention of authorities regarding them; and
- supporting victims of heinous crimes through a court watch, ensuring the victims' access to police and justice officials, making them accessible to the media, and in a few cases, providing them financial assistance.

The members of both the MRPO and the CAAC work on a voluntary basis. Both organizations do not have a full-time staff. The two groups are funded by donations from individual members who pay for incidental expenses, donations from corporations for major expenses like taking out newspaper advertisements, and proceeds from projects like selling tickets to movie premiers and stage presentations.

The National Summit on Peace and Order

The government organized the First National Summit on Peace and Order on February 15-16, 1993 in response to the public clamor for solutions to the problem of rising criminality, especially the increasing incidents of kidnappings. The first summit was followed by three more summits that took place in February of 1994, 1995 and 1996. MRPO and CAAC members were active in the first three summits and in all the follow-up conferences, workshops and seminars intended to push through the summit recommendations.

The first summit set the tone for the others. Subsequent summits made essentially the same recommendations and findings as those drafted during the 1993 meeting.

The first summit defined the problems of each of the five pillars of the criminal justice system.

I. LAW ENFORCEMENT PILLAR
- Poor PNP Credibility
- Public Apathy (Lack of Involvement by the Community)
- Low Morale
- Police Administrative Supervision and Control

II. PROSECUTION PILLAR
- Undue Delay in the Prosecution Process
- Patronage and Political Pressure
- Inadequate Competence and Commitment of Prosecutors

III. COURTS PILLAR
- Organizational Capability
- Negative Image of the Judiciary

IV. CORRECTIONS PILLAR
- Inadequate Jail/Prison Facilities
- Poor Service Delivery
- Lack of/Inadequate Rehabilitation Programs for Probationers/Parolees/Pardonees
- Illegitimate/Internal and Illegal External Interference/Lax Security Measures e.g. Political and Syndicate Interference

V. COMMUNITY PILLAR
- Lack of Community Support in Crime Prevention and Crime Suppression
- Irresponsible Media Coverage
- Ignorance of the General Public, Parents and the Youth of the Criminal Justice System
- Livelihood Projects to Alleviate the Economic Status of the Poor
- Media Distress Response Service System
- Non-Filing of Formal Complaints
- Advocacy and Social Mobilization

The most obvious of the problems that plague the criminal justice system is the lack of credibility. The police suffers from image problems because of the presence of scalawags within the organization, a poor sense of commitment to fighting crime, inefficiency, inept leadership and public skepticism about its efforts to cleanse its ranks. The prosecutors, on the other hand, are overworked, underpaid, and under-motivated. The courts, meanwhile, have been charged with corruption and misinforming the public.

The summits also offered concrete solutions to each of the problems discussed. For law enforcement, the recommendations included allowing the police to focus on crime by transferring anti-insurgency operations to the Army; implementing the *koban* (or adopt-a-cop) system; setting up emergency police lines; and immediately dismissing and prosecuting erring policemen. There were also recommendations to upgrade police education and information-gathering facilities. Moreover, the summits pushed for the involvement of communities in crime prevention.

For prosecution, the recommendations included increased protection for witnesses, the upgrading of crime laboratory facilities, establishing a National Prosecution Academy or at least improving the training of prosecutors, the establishment of small claims courts, expansion of Public Attorney's Offices, and the use of barangay officials for serving subpoenas and warrants. There were also recom-

mendations to remove incompetent and corrupt court personnel and to provide more resources for education and training for judges and justices.

At the end of first summit, the recommendations were synthesized. Then a two-day workshop was held for the so-called interfacing phase — the bonding among the different government agencies involved and the firming up of linkages between government and community groups. Both the CAAC and MRPO were represented in these meetings.

After the summit, however, the recommendations that were drawn up were reduced to what the NAPOLCOM euphemistically called "doables." In doing so, a number of urgent and significant recommendations that could have had long-term impact were ignored. The doables are the easy tasks; addressing the "gut issues" is more difficult as they require the exercise of a strong political will.

Not surprisingly, three months after the first summit, there was again a resurgence of heinous crimes, including murders, rapes, and kidnappings. This was when the serial rapes in Marikina took place, and students Eileen Sarmenta and Allan Gomez were allegedly murdered by a town mayor. In addition, a series of kidnappings took place even if just two months previously, the head of the notorious Red Scorpion kidnap gang had been killed with several of his followers. The spate of crimes prompted both the MRPO and the CAAC to write letters to the three top officials in charge of crime: Vice President Joseph Estrada, Interior and Local Governments Secretary Rafael Alunan and PNP Director General Umberto Rodriguez. The letters, dated July 18, 1993, reiterated the recommendations made during the summit.

Six months after the first summit, the CAAC and the MRPO made their own internal evaluation of the summit and drew up a list of new recommendations on what else should be done to push anti-crime efforts. They cited the new spate of kidnappings and said that this was a clear challenge to authority, as they took place after the President had ordered the PNP chief to do something about the abductions. They said that crime prevention should be a top government priority and recommended tougher measures to ensure that crime syndicates are dismantled and prosecuted.

Clearly, the first national summit did not succeed either in stemming the tide of criminality or forcing government to undertake a more serious anti-crime campaign. It also became clear to the MRPO and the CAAC that the NAPOLCOM technical panel on the criminal justice system was not the proper mechanism for implementing the summit recommendations. In 1995, a similar national peace and order summit was convened, but it mainly rehashed the recommendations and the problems cited by the first summit.

As in 1993, the police still considered poor image and lack of credibility as their biggest problems. The prosecution and the courts were still grappling with delays and the backlog of cases. Not surprisingly, by the end of 1995, the CAAC representatives at the NAPOLCOM were convinced that their participation in the national summits and the technical panel would get them nowhere.

CAAC and MRPO Interventions

After the 1995 summit, the CAAC assigned its members to monitor the implementation of selected recommendations. The group found that some of the recommendations were acted on immediately. However, the only mechanism for follow through of most of the other recommendations is the NAPOLCOM technical panel. The CAAC found problem areas as well as areas where the collaboration with government yielded some success (See Annex 2).

The structure of the technical panel itself.

Though the government representatives in the technical panel are hardworking and dedicated people, they do not seem to be in a position to push through the reforms. They are usually middle-ranking deputies who have other work to do apart from ensuring that the recommendations made by the technical panel are followed through. Moreover, it is doubtful whether these representatives actually have the power to commit their agencies to implement the recommendations or to convince their superiors about what needs to be done.

No effective mechanism for follow through and implementation.

The recommendations remained only at the discussion level. There was no mechanism to monitor whether they are being pushed through or not. Ideally, there would have been no need for monitoring if each agency or unit did what it was assigned to do. That is hardly the case. For example, it took the justice secretary six months to write a letter of request to a television station to ask permission to view the tape of a newscast. It took another three months before the tape was viewed, and by that time, it would hardly have made a difference.

Another example is that the proposed legislation intended to have an impact on the justice system was not followed through at either the House or the Senate.

The perennial problem with political appointees.

Related to the above problems is the fact that the heads of the five pillars of the justice system and the many agencies under them are political appointees who may feel that their jobs are secure enough and that pushing the recommendations of the summit are not crucial. This attitude reflects that of the political leadership itself which has not shown strong political will in cracking down on criminals and making non-performing heads of institutions accountable for their failure to move faster to restore peace and order. Even at the NAPOLCOM level, officials have a "business as usual" attitude to the problems at hand; they seem to have no sense of the urgency of the problem.

Failure to tap the assistance offered by NGOs and their networks.

Officials have also failed to follow through on the support offered by NGOs. Citizens' groups could have collaborated more effectively with law-enforcement agencies in such efforts as lobbying for additional budget, finding solutions to the ineffectiveness of the emergency phone number 166, and printing and dissemi-

nating posters featuring wanted criminals. There is a lack of venues where communities could extend their support for the anti-crime campaign.

Areas of success

- The few successful *koban* adopt-a-cop programs were understandably those where there was collaboration between NGOs and the police. Without the NGOs, the plans of the COPS (Community-oriented Policing System) were imposed from above and the police precinct or block were forced to adopt them regardless of their capability to do so.
- The donation of cash and gifts to widows of slain policemen in December 1995 was quite successful and should ideally be expanded to areas outside Metro Manila.
- The dialogues conducted between the heads of each pillar and the NGOs should have been sustained. This may effectively lessen the feelings of antagonism from some officials who believed that the NGOs were there just to criticize.
- Support of the community in terms of lobbying for the budget of some of the pillars should continue to be tapped.

The fight against criminality is essentially a government job. The anti-crime NGOs can offer only so much help. But unless the government takes the problem of criminality as a serious and pressing concern, then citizens' groups will continue exerting pressure until it does.

The Kidnapping Problem in Focus

The MRPO and CAAC were formed in direct response to the rise in kidnappings, which remains a continuing concern of both groups. Aside from their involvement in the summits on peace and order, these NGOs have also provided resource persons to agencies making plans to address the kidnapping problem. In 1994, after prominent businessman Meneleo Carlos was abducted, President Ramos called yet another command conference to deal with the problem. Another emergency action plan was drawn up on September 13, 1994 . To this day, however, many of the items in the plan remain unimplemented.

For example, the action plan stated that 24 kidnap syndicates will be neutralized within 90 days, but hundreds of days have passed since then and these syndicates are still laughing all the way to the bank. The plan also talked about intensified prosecution of arrested kidnappers. But to this day, few kidnappers have been brought to justice. For example, those involved in the well-documented case of the kidnapping of the Dichavez children on December 20, 1993 have not yet been arraigned, even if this is one of the test cases chosen by then Justice Secretary Franklin Drilon. Few kidnapping cases have as much evidence against the abductors as this one: there is a videotape of the ransom exchange, a voice tape of the ransom negotiation and photographs of the pay-off. It is also the only kidnapping case where the victims' family hired a helicopter to see to the safe release of the two children, then age three and five, before they moved in against the kidnappers.

The different task forces organized to fight kidnappings also remain ineffective. Worse, several heads of the task forces have been implicated in some kidnappings. These included the heads of the Western Police District anti-kidnap-

ping task force, Jose Pring, Timoteo Zarcal and Nonito Arile. The three men were acquitted in court but not before they implicated Vicente Vinarao, director of the Central Investigation Service.

Another suspect was Col. Reynaldo Berroya, chief of the Presidential Anti-Crime Commission's (PACC) Task Force Lawin, who was tried and charged in court for kidnapping. In 1995, two heads of the PNP intelligence commands were implicated by the PACC in kidnapping, but were later cleared by the PNP. Another PNP unit has since informed the CAAC and MRPO that it had recommended the dismissal of these two officers, but this recommendation was ignored.

Not surprisingly, the involvement of law-enforcers in crime syndicates has made citizens cynical about government and wary about reporting crimes to the authorities.

The Anti-kidnapping Task Forces: *A Study in Confusion*

One month after Mr. Ramos assumed the presidency, he appointed Vice President Joseph Estrada as head of the PACC, a newly created body whose existence was a tacit admission that crime had become a pressing social problem. The PACC was made the lead agency in the anti-kidnapping campaign.

But this was in name only. The PACC never got the full support of the Office of the President nor the director general of the Philippine National Police. It was short on logistics and personnel. The CAAC and MRPO had pointed out that as the lead agency, the PACC deserved the best personnel — intelligence agents, investigators, lawyers, prosecutors and others. But official support came in trickles, and the PACC often had to seek funding from outside sources.

While the PACC was a structure organized as subordinate to the PNP, its functions and internal organization, however, made it parallel to the PNP. It was therefore seen as a rival of the PNP. The PACC was also viewed with envy due to the logistical support it got not just from the PNP but also from outside sources.

The initial organization of the PACC was also quite unwieldy. Its personnel came from various other agencies. After the first six months of its existence, the PACC dismissed more than 100 of its personnel on the suspicion that they were involved in criminal activities and that a number of them were actually moles of criminal syndicates.

In fact, just three months after the formation of PACC, Mr. Estrada was told that the heads of his anti-kidnapping and anti-drugs task forces were themselves involved in criminal activities. Thus, in the beginning, NGOs were reluctant to cooperate with the PACC. Eventually, however, after the revamp of the PACC and the trial and conviction of Berroya, citizens' groups began collaborating with it, resulting in several breakthroughs in the anti-kidnapping campaign.

Recently, due to the upsurge in the problems of criminality, other task forces were formed. On top of the PACC's Task Force Habagat, the PNP formed its Task Force Dragon and the DILG formed its PARAC while the NBI has its task force on organized crimes. The military, specifically the ISAFP, also has a counter-intelligence group that gathers information on law enforcers who are involved in criminal activities. The ISAFP also has a Task Force Hammerhead that is supposed to be the counterpart of Task Force Habagat in its anti-kidnapping activities.

The existence of so many task forces, on the surface, is a deterrent to crime since there are many more groups addressing the problem. In reality, however, it has also led to confusion. Among themselves, the task forces have also been engaged in competition for turf, acknowledgment, and publicity. Citizens end up confused as to which agency or official they should approach. The citizenry's confidence must be restored before they can be expected to start working with any task force designated to lead the anti-kidnapping campaign.

The Media and Publicity

The media could be the best ally and also the worst enemy of anti-crime groups. The citizenry have no weapons against well-organized, well-funded, well-informed, well-armed and well-protected criminal syndicates. The only potent weapon wielded by citizens is public opinion and public pressure exerted through the media. The CAAC and MRPO notice that every time the media drum up attention on the upsurge of criminality, there is a very visible reduction of the incidents of crimes, particularly kidnapping. Once the problem is removed from the headlines, it returns, often in more daring form. The media have therefore been a great help in airing the people's concern about criminality.

However, the media can also be faulted in their reportage. Often, wittingly or not, they make it appear that the CAAC and MRPO are adversaries of the police in fighting crime. Nothing could be farther from the truth. The police have enough enemies to fight; including anti-crime NGOs among them would be counter-productive. Since the media report more often on the incidence of criminality, what get highlighted are the citizens' criticisms on the handling of the anti-crime campaign. The partnership between NGOs and police does not seem to merit the same kind of high-profile reportage.

Another problem is the penchant of the police for publicity, a result partly of the competition among anti-crime units and task forces. Each group wants to grab the credit for initiating actions that often put the lives of victims in grave danger. For example, a press release of the Task Force Dragon announced that law enforcers were closing in on the suspects and that they were tapping the victim's telephone. Such publicity-seeking endangers the victim and his family. In this instance, negotiations with the abductors were cut off, and the victim was released nearly a month after his captivity. Moreover, the ransom paid was much higher than usual and was in fact among the biggest amounts paid by a kidnap victim.

The citizenry's frustrations with the way law enforcers operate have prompted the CAAC and MRPO to link up with various other groups to agitate for action. They networked first with business groups like the Philippine Chamber of Commerce and Industry and the Bishops-Businessmen's Conference. A proposal was drawn up for the consideration of these two organizations. Although the proposals were well received, the business groups failed to follow them through despite several reminders and suggestions that they fund anti-crime NGOs to pursue the proposals on their own.

The Multisectoral Study Group

In December 1995, at about the same time when CAAC and MRPO representatives resigned from the NAPOLCOM technical panel, various anti-crime NGOs expressed regret that they can no longer participate in the fourth National Summit on Peace and Order scheduled for February 1996. They said that the national summit was a waste of time, that they were merely mechanisms for legitimizing the little that government does, and that there were no effective mechanisms to follow up recommendations raised at every summit.

Instead, the CAAC, MRPO, Konsyensyang Pilipino, the Ateneo Human Resource Development Center, PCCI and BBC formed a multisectoral study group to draw up a reform agenda to overhaul the criminal justice system. In its first meeting, the study group decided to focus on the law enforcement pillar. In 1996, consultations were held with various agencies, including the budget commission to find out how budget is distributed.

The multisectoral study group analyzed in depth the various problems and issues raised in past summits. Recommendations were drawn up and further discussed with the Interior and Local Governments Secretary Robert Barbers, Presidential Management Staff Secretary Alexander Aguirre, Manila Mayor Alfredo Lim, Vice Mayor Lito Atienza and Manila City Fiscal Jose Flaminiano as well as intelligence officers of the PNP. The reforms suggested were long-term, structural reforms that would need legislative intervention. Thus, Senators Franklin Drilon and Orlando Mercado as well as Rep. Teodulo Natividad were also brought in as consultants.

The recommendations were divided into the following areas: civilianization, professionalization, localization and modernization of the police.

The study group was divided on the proposal to return the supervision and control of the police to the mayors. Many of the mid-level PNP officials said this would result in a fragmented and uncoordinated police force. Barbers, Aguirre, Lim, and PNP intelligence agreed that while the idea is a good one, it is subject to great abuse. There is therefore a need for safeguards to guard against abuse. To professionalize the police, the study group agreed that the Philippine Public Safety College which trains police officers should be drastically restructured.

The Multisectoral Study Group also conducted several meetings with Barbers to get his views on how the police could be better equipped to handle crimes. It had several consultations with the Department of Budget Management. It also threshed out with Barbers and Aguirre the problematic PNP structure, which is characterized by too much bureaucracy. At the PNP headquarters in Camp Crame alone, there are 8,000 personnel who could be put to better use if they were out on the streets fighting crime. In addition, there are 15 regional headquarters and 76 provincial headquarters, some of which may be quite redundant considering that there are 200 district headquarters below them.

Budget-wise, the PNP structure is also quite unwieldly. Small police stations often complain about lack of logistics in terms of basic needs like gasoline (each patrol car is provided only three liters of fuel a day!). Even paper for typing reports is sorely lacking, not to mention basic equipment like fingerprinting kits. A number of precincts don't even have telephone lines. All these problems can also be

traced to the bureaucracy. By the time the budget is released to the precinct, there is little of it left.

As a result of the study group discussions, two senators promised to look into the problems discussed. At the same time, representatives of business groups promised to look for private sector support for precinct-level needs.

Weaknesses and Strengths

The restoration of democratic space in the Philippines has given both the CAAC and MRPO ample opportunities for intervention in the campaign to fight crime and to work for reforms in the criminal justice system. However, as fighting crime is essentially government's job, anti-crime NGOs should theoretically limit themselves to advocacy or pressure-group tactics. But it soon became clear that, as various members of the CAAC and MRPO gained first-hand experience with the criminal justice system, they needed to be more deeply involved at the policy-making level. Public pressure was not enough to ensure that the job was done. Following is a summary of the areas of interventions utilized and maximized by citizens' groups and of areas that were under-utilized.

Strengths or Areas of Interventions Utilized Fully

With the public

- Mobilizing public opinion and public pressure to make the government move. Ready access to the media enables citizens' groups to make their concerns public through statements, letters and interviews.
- Networking with other cause-oriented groups and NGOs, especially for information-gathering, public rallies and other mass protest actions.
- Networking with academe and other research-based institutions for easier information dissemination, especially among students
- Networking with big business groups and professional organizations like the PCCI, the Integrated Bar of the Philippines, the Bishops-Businessmen's Conference, Banker's Association, Federation of Filipino-Chinese Chambers of Commerce, etc.
- Invitations to be resource persons in many forums in schools, with business and other civic groups, and with the media.
- Support from the church.
- Ability to get volunteers for court-watch activities and monitoring of cases.
- Adoption by communities of a few police precincts to encourage mutual support and cooperation.
- Access and support given to earn the confidence of victims which proved valuable for information gathering and monitoring.

With the government

- Access to high-ranking public officials, including but not limited to Cabinet secretaries tasked to help improve the crime situation, including the secretaries of justice and local governments, the PNP hierarchy, the executive secretary, court administrator, NAPOLCOM chief, the chief prosecutor, and the police district commanders.

- Access to middle- and lower-level public officials — policemen on the beat and those in the precincts, top-aides of public officials who usually are the ones who translate the plans into action, clerks of court, etc.
- Invitations to attend top-level conferences like the National Peace and Order Council and the peace and order summits where NGO recommendations are given.
- Access to legislators, especially the committees on peace and order and justice in both the Senate and the House.

Weaknesses or Areas of Intervention Underutilized

- Only a few members are willing to cooperate with the media, thus making the few spokespersons vulnerable and exposed to criminal retaliation.
- Information, inputs and recommendations given are only as good as the paper they are written on. The CAAC and MRPO do not have enough clout or political strength to push through the recommendations unless the government itself has the political will to do so.
- The bills proposed in Congress go through a slow process before they are approved.
- The camaraderie and brotherhood system that rule in the police and the courts make it difficult for NGOs to initiate a clean up and a revamp in these institutions.
- Limited number of volunteers for court watch and monitoring of cases.
- No member of the CAAC and MRPO works on a full-time basis, hence the activities drain time, energy and resources of the volunteers.
- The *koban* or adopt-a-cop project must be replicated. CAAC expertise on this must be disseminated further.
- Partnership with the police not fully maximized due to mutual distrust and the defensive attitude of the police.
- There is no mechanism to push for the punishment of erring PNP officials.
- Business groups which network with CAAC and MRPO are too conservative to undertake more positive action or intervention.

Ultimately, the success or failure of the CAAC and MRPO revolves around the sincerity and commitment of the government to combat criminality. The refusal to face the reality that the kidnapping problem continues to be a monstrous menace does not reflect well on the government's resolve to act decisively on the problem.

Conclusion

The CAAC and MRPO were formed in response to the problem of rising criminality, which remains one of the toughest challenges faced by the Ramos administration. When the first summit on peace and order led to a thorough revamp of the PNP, there were high expectations and hopes that the administration of justice would improve and the problem of criminality would be eradicated. The anti-crime activities and advocacy of the CAAC and MRPO have so far been sustained for more than three years. But these efforts have been painstaking, tedious, frustrating and at times, even dangerous. Although they would have chosen to spend time doing more productive and normal work like taking care of their families and businesses, the members of these groups have found that they are called upon to help combat criminality.

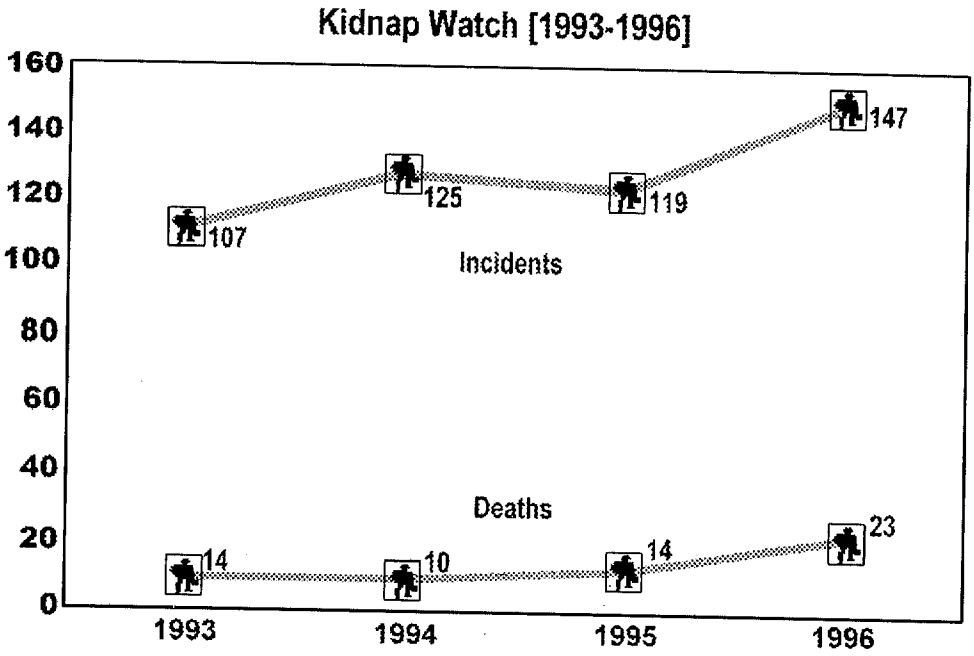
They marched in the streets, talked to the media, raised people's awareness of the issues. They also worked with the different pillars of the criminal justice system. Thus, the court watch and other support mechanisms for victims, public lectures and media appearances, adopt-a-cop projects, and the multisectoral study group that looked into structural reforms.

Often, they were met with the stubborn resistance of law enforcers who refused to accept that anti-crime NGOs are their partners, not their adversaries. They refused to see that these groups had the same goal as theirs: to reduce the incidents of criminality and keep homes and streets safe for citizens.

To implement structural reforms in the criminal justice system, time, effort and logistics are needed, but they must be initiated soon. Unless the structural problems are addressed, the problems will recur. The courts remain ineffective and slow in delivering justice. The penal system not just allows criminals to escape, but allows inmates to go out of jail from time to time and earn lucrative incomes through illegal activities. Moreover, law enforcers are inordinately preoccupied with image building. They seem unable to realize the fact that the best image- and credibility-building instrument is performance and nothing else.

The anti-crime NGOs can say with pride and without self-aggrandizement that they have done their very best to do what they can to restore peace and order. What is lacking, in the final analysis, is the political will on the part of the government to do its part. Action, not press releases and orders, is what is needed to restore the citizens' faith in the government's sincerity.

Annex 1


Kidnap Watch [1993-1996]
160
140
120
100
80
60
40
20
0
107
125
119
147
Incidents
Deaths
14
10
14
23
1993
1994
1995
1996

Annex 2
CAAC/MRPO Interventions in Reforming and Strengthening the Criminal Justice System

Needs	Action/Intervention	Interface with	Results	Success Factors	Limitations	Remarks
I. Law Enforcement Pillar						
Expand/Improve Koban adopt-a-cop project Community Policing Project	Workshops/information campaign to replicate, improve the project	PNP officials/ block commanders/community/neighborhood	Some successful, some failed outright, replication too slow	NGO groundwork done well Full cooperation of block commanders	Project imposed from above groundwork haphazard; not institutionalized (i.e., block commanders changed) too personality-oriented	Needs to be institutionalized Needs more NGOs to participate and replicate
Continuing cleansing/ revamp of PNP	Watch on cases filed vs. erring officers	PNP officials/ Sandiganbayan	Partial success, mostly failures	Public pressure on top officials through media	Administrative cases only/no criminal liability (hard to gather evidence) Top officials implicated/not punished Brotherhood cult	Civilian intervention can be done only on limited scale, main responsibility still lies with leadership
Improve crime fighting ability (professionalization and modernization) of police force, i.e. budget Increase salaries/benefits	Operationalize lobby group for passage of bills for the professionalization/modernization of law enforcers Budget-watch to see that budget matches needs/used wisely	PNP officials/ Congress Watch	Successful generally, limitations in some	Painstaking networking with House and Senate on policy recommendations pushed thru budget, i.e., salary standardization	Decentralization of budget still needs working out Uncertainty on whether budget used effectively	Department of Budget Management, PNP leadership/NAPOLCOM and COA need closer cooperation to push professionalization/modernization
Rewards/assistance for policemen hurt/die on duty	Raise a trust fund to give rewards or to assist families of police officers who are hurt or who die while performing duties	PNP officials/business groups and institutions	Limited success	Widows of policemen who died while performing duty given cash/kind assistance on Christmas	Limited only to NCR; only to one-time relief; trust fund needs to be raised	NGO's fund-raising ability always too weak/general distrust of policemen

Needs	Action/Intervention	Interface with	Results	Success Factors	Limitations	Remarks
Structural Reforms in PNP	Study/Draw up policy recommendations to institutionalize reforms in PNP	PNP officials/NAPOLCOM legislature/Multisectoral study group	Long-term project, partial results on same especially on budget intervention	Multisectoral group cooperative in painstakingly analyzing/pinpointing the necessary reforms	Process too slow; only law-enforcement pillar tackled in one year's time NGOs work only as volunteers	For long-term projects an institutionalized NGO with staff/fund support, etc. (not just on volunteer basis) is needed
II. Correction Pillar						
Improve Penal Gode	Higher penalty for prison guards who allow suspects to escape/who allow prisoners-for-hire	Revised Penal Code Congress	Failure		NGOs' intervention too limited; it needs a Prisons Director's effective management of the jails to prevent escape/prisoners-for-hire; public pressure also needed to prevent politicians' intercession for prisoner's release	
Minimize political interventions	Watch out for appointment of prisons director/prevent release of prisoners thru political interventions	Prisons Director DOJ/Office of the President	Failure			
III. Prosecution Pillar						
Improve competence and commitment of prosecutors	Establishment of a National Prosecution Service Academy (NPSA)/Better training/greater benefits for prosecutors-budget watch	Congress spearheaded by NPS & NPLP/Budget	Failure		NGOs intervention too limited; it needs more than the aggressive intervention from Justice Secretary to improve training of prosecutors; assure their commitment/ incorruptibility Benefits/wages subject to salary standardization	
Prevent undue delays in the prosecution process	Finding of probable cause by the Prosecutors should be binding on the courts for purposes of proceeding with trial	Supreme Court, DOJ, NPS, NPLP	Limited success	Court Watch by anti-crime groups /public /media pressure	NGOs can only court-watch selected cases despite public pressures, financial considerations and political pressure often prove stronger, DOJ needs to take punitive action against prosecutors who allow undue delays in the trial of cases	
	Strict implementation of DOJ Circular No. 49 requiring prosecutors to dispose of cases within 60 days	DOJ, NPS				

Needs	Action/Intervention	Interface with	Results	Success Factors	Limitations	Remarks
	Recommend to the Supreme Court to decide RTC cases on heinous crimes within one(I) year, and for the Bureau of Corrections to carry out the death penalty within six (6) months from the finality of the Supreme Court decision.	DOJ, NPS/SC Bureau of Corrections				
Absence/ Dearth of Witness	Institutionalization of training and development of crime laboratory technicians, criminal investigators, evidence custodians and experts for prosecution of cases	PNP-NARCOM, NBI, DDB, DOJ	Limited success	Rewards/limited protection given to witnesses	Training of prosecutors and modernization of investigation methods should be side-by-side. Prosecutors must also learn to work hard with police investigators in handling/gathering/presentation of evidence to make a case stick. The witness protection program has to be strengthened further.	
	Intensified/more vigorous implementation/application of DOJ's Witness Protection, Security and Benefit (WPSB) Program	DOJ, PNP-DILG, Congress-Budget Watch				
IV. Courts Pillar						
Speedy Disposition of Cases	Amendment of pertinent provisions of the Rules of Court to obviate delay i.e., 1. Include tardiness/absence of lawyers, fiscals, parties and their witnesses in Rule 70, Section 1 as constituting direct contempt 2. Adoption of remedial measures in the implementation of the mandatory continuous trial to insure attendance of witnesses,	Supreme Court (Committee on the Revision of Rules)	Limited success in selected cases; generally a failure	Public pressure thru court watch by NGOs. Some court rules have been revised or remedial measures undertaken.	NGO intervention too weak and limited Court administrators need to function more effectively to monitor cases where there are blatant miscarriage of justice	Ideally, courts should not need public pressure to do their jobs On the whole, it is still people (the judges) who act either uprightly or deceptively

Needs	Action/Intervention	Interface with	Results	Success Factors	Limitations	Remarks
	particularly doctors, technical experts, military and police officers as well as prosecutors, Public Attorneys' Office (PAO) lawyers and private counsels 3. Judges should allow only two postponements for each litigating party					
Public Information and Community Legal Education	Partnership of NGOs with the Courts/IBP/UP Law Center/Philippine Judges' Association and Voluntary Lawyers' Association to educate the public on the processes involved in the administration of criminal justice	Supreme Court /NGO Community	Limited success	NGOs were able to address student's groups, civic organizations to disseminate info thru media, etc.	NGOs need more widespread interventions to reach wider sectors, existing organization too small/limited	It's better if the government itself can institutionalize this as part of the education process
Enhancing the Image of the Judiciary	Discipline erring judges 1. Automatic disbarment of a judge found guilty in an administrative case on an offense which is a ground for disbarment 2. Encourage public to report corrupt/erring judges to the Supreme Court and not to the media	Supreme Court	Limited success	Court watch of some cases	NGOs have limited influence to guard against corrupt judges; victims are still too ignorant of their rights or too afraid to file charges vs. judges NGOs cannot work to improve the image of the judiciary, judges themselves have to clean up their ranks; court administrators office must function more effectively.	

Annex 3
CAAC Doable Tasks On Reforming and Strenghtening the Criminal Justice System (May 15, 1995)

Needs	Action	Interface with	Time Table	Champions
I. Law Enforcement Pillar				
Expand/improve Koban adopt-a-cop project Community Policing Project	Workshops/information campaign to replicate, improve the project	PNP officials/block commanders/ community/neighborhood	Continuing	Rose Yenko Norma Urbina Nina Colayco Tita Reverente
Continuing cleansing/revamp of PNP	Watch on cases filed vs. erring officers	PNP officials/ Congress Watch	New Congress session	Katie Bianco Ophie Sta. Ana
Improve crime fighting ability (professionalization and modernization) of police force Increase salaries/benefits, i.e. budget	Operationalize lobby group for passage of bills for the professionalization/modernization of law enforcers Lobby group to pin down De Venecia's promise -- Congress budget watch	PNP officials/Congress Watch	New Congress session	Tess Baltazar Miguel Perez-Rubio Triccie Sison Glory Alcuaz
Rewards/assistance for policemen hurt/die on duty	Raise a trust fund to give rewards or to assist families of police officers who are hurt or who die while performing duties	PNP officials/ business groups and institutions	Continuing	Alex Tee Mila Alora
II. Correction Pillar				
Improve Penal Code	Higher penalty for prison guards who allow suspects to escape	Revised Penal Code Congress		Pochola Villanueva Atty. Pecas
III. Prosecution Pillar				
Improve competence and commitment of prosecutors	Establishment of a National Prosecution Service Academy (NPSA)	Congress spearheaded by NPS & NPLP	10th Congress 1995	Imelda Endriga
To prevent undue delays in the prosecution process	Finding of probable cause by the Prosecutors should be binding on the courts for purposes of preceeding with trial	Supreme Court, DOJ, NPS, NPLP	Within 1995	Miguel Perez-Rubio
	Strict implementation of DOJ Circular No. 49 requiring prosecutors to dispose of cases within 60 days	DOJ, NPS	Continuing	Miguel Perez-Rubio CAV
	Recommend to the Supreme Court to decide RTC cases on heinous crimes within one (1) year, and for the Bureau of Corrections to carry out the death penalty within six (6) months from the finality of the Supreme Court decision.	DOJ, NPS/SC Bureau of Corrections	Within 1995	

Needs	Action	Interface with	Time Table	Champions
Absence/Dearth of Witness	Institutionalization of training and development of crime laboratory technicians, criminal investigators, evidence custodians and experts for prosecution of cases	PNP-NARCOM, NBI, DDB, DOJ	1995	Rose Yenko Tessy Ang See
	Intensified/more vigorous implementation/application of DOJ's Witness Protection, Security and Benefit (WPSB) Program	DOJ, PNP-DILG, Congress-Budget Watch	Within 1995	Imelda Endriga
IV. Courts Pillar				
Speedy Disposition of Cases	Amendment of pertinent provisions of the Rules of Court to obviate delay i.e., 1. Include tardiness/absence of lawyers, fiscals, parties and their witnesses in Rule 70, Section 1 as constituting direct contempt 2. Adoption of remedial measures in the implementation of the mandatory continuous trial to insure attendance of witnesses, particularly doctors, technical experts, military and police officers as well as prosecutors, Public Attorneys' Office (PAO) lawyers and private counsels 3. Judges should allow only two postponements for each litigating party	Supreme Court (Committee on the Revision of Rules)		Sylvia Alejandro
Public Information and Community Legal Education	Partnership of NGOs with the Courts/IBP/UP Law Center/Philippine Judges' Association and Voluntary Lawyers' Association to educate the public on the processes involved in the administration of criminal justice	SC/NGO Community		Rose Yenko Imelda Endriga
Enhancing the Image of the Judiciary	Discipline erring judges 1. Automatic disbarment of a judge found guilty in an administrative case on an offense which is a ground for disbarment 2. Encourage public to report corrupt/ erring judges to the Supreme Court and not to the media	SC		Louie Sison Atty. Pecas Levi Vinculado

MARIA SOCORRO I. DIOKNO

CRIME & HUMAN RIGHTS

State-Civil Society Dynamics on the Anti-terrorism Bills[1]

Introduction

The state and civil society are inextricably linked and impact on each other in a complex involving manner. The process through which the state and civil society interact is perhaps best illustrated by what has been termed the "first major civil revolt against the Ramos administration."[2]

The Ramos administration pursued the adoption by legislation of an anti-terrorism bill, which sought to contain the evils of terrorism in the country. Government efforts were met by public outcry and spontaneous and sustained protests. The protests reconstructed national political discourse and redefined the terrain of Philippine politics.

This is a study of the interaction between civil society and the state in the context of the anti-terrorism bills. It focuses on state and civil society configurations and the methods through which the state and civil society exerted mutual, though unequal, influences on each other, the direction of the flow of this influence, the means through which the interplay of influence occurred, and the degree to which social actors actually influenced the political process.

Civil society — the key to the birth and continued existence of viable democracies — is both a social and political phenomenon; it entails political self-organization of society; it is a determined effort on the part of society to maintain democratic political order, with a number of supporting social and cultural phenomena which keep democracy intact and meaningful. It thrives best where the political culture is democratic and society as a whole has a vested interest in protecting the democratic essence of the system.[3]

> ...democracy is a way of coming to terms with the need for authority without accepting a duty to submit to whatever abuses it might bring in its train. The right to criticize and censure a government ..., is a practical recognition of the principle that the duty to obey, understood as a moral duty, must always be conditional, and is never a duty to suspend judgment.... [Democracy] is not a denial of the need for authority, but a recognition that no authority can ever be keeper of a man's conscience.[4]

This study, therefore, aims to demonstrate the potential for the component groups of civil society to assert themselves in the political scene, to act as the political voice of the people, and to actively control the dynamics of policy formation.

The methodology employed in this study consists of interviews with key informants representing the state, church, non-government organizations, and political formations,[5] a review of existing literature, and content analysis of various public statements, editorials, and news articles.

This study, however, suffers from two major limitations: first, the author had no access to certain official documents protected by the secrecy act;[6] and second, time and other constraints have compelled the author to limit her focus to the major political formations within civil society. This is not to belittle the efforts of other groups and organizations which may or may not form part of the major political formations but which, all the same, played active and vital roles in the campaign against the anti-terrorism bills.

The Anti-Terrorism Bills

In his State of the Nation Address on July 24, 1995 at the opening of the 10th Congress, President Fidel V. Ramos called on Congress to pass an anti-terrorism act which defines terrorism as a "heinous" crime and penalizes it with life imprisonment or death.[7] Barely a month later, in August 1995, the Department of Interior and Local Government (DILG) submitted to Congress its legislative agenda proposing the enactment of the Anti-terrorism Act of 1995, among others.

The Anti-terrorism Act of 1995 was subsequently adopted, almost in toto by Rep. Roilo Golez, who later filed House Bill No. 206 entitled An Act Defining Terrorism and for Other Purposes. In the Senate, meanwhile, Sen. Orlando S. Mercado filed Senate Bill No. 264 entitled An Act to Protect the State Against Aliens and Organizations Engaged in International Terrorism (Amending the Philippine Immigration Act of 1940). Six months later, on January 12, 1996, Sen. Juan Ponce Enrile filed Senate Bill No. 1353 entitled The Anti-terrorism Act. Barely two weeks later, the mass media reported that the Department of Justice had prepared its own version of an anti-terrorism bill which it entitled An Act Punishing the Crime of Terrorism by Amending Article 123 of Section Three, Chapter One, Title One, Book Two of Act Numbered Thirty Eight Hundred and Fifteen, Otherwise Known as the Revised Penal Code, and for Other Purposes.

The President, the Department of Interior and Local Government, the Armed Forces of the Philippines and its intelligence services, and the proponents defended the measure, citing several bombing incidents in Mindanao, the bombing of a Philippine Airlines plane, the planned assassination of Pope John Paul II, the arrest of foreign terrorists including the alleged mastermind of the 1993 bombing of New York City's World Trade Center, and the pillage of Ipil town on April 4, 1996.[8]

The state truly believed that "terrorism is a very grave threat to the Filipino people as documented by the events during the months before ..., as well as the past three years."[9] The state also believed that the weapon it needed to fight terrorism was the anti-terrorism bill.

These beliefs were not shared by civil society actors, who questioned the very premises of these beliefs. Instead, they asserted that "the evidence regarding the foreign terrorists is not very convincing."[10] Furthermore, they believed that "the incidence of terrorism in the country is not as widespread as [government] would want the people to believe. It is possible that these events were created by government, precisely to give it reason to legislate the anti-terrorism bill."[11]

Civil society actors believed that other factors led to the drafting of the anti-terrorism bills. They agreed that first, the state needed the anti-terrorism bill in order to assist President Ramos's political ambitions beyond 1998.[12] Second, the state needed the anti-terrorism bill in order to pursue economic programs and policies designed to make the Philippines a newly-industrialized country.[13] And third, the state needed the anti-terrorism bill to stem rising social discontent brought about by economic crisis.[14]

One of the civil society actors asserted that the anti-terrorism bill unmasked the true nature of the form of government — that of a "fascist, militaristic rule:"

> The fall of the Marcos dictatorship that was supported by the imperialist United States did not mean the return of democracy to the Philippines. Other groups are mistaken when they say that what governs after the dictatorship is elite democracy. In truth, it is more correct to say that the form of rule and of the ruling elite (which are the imperialists, big business and landlords) is essentially and practically a fascist rule with a thin democratic facade represented by the return of regular elections and, related to this, the creation of the three branches of government which possess relative independence, and the relative freedom of the mass media....
>
> We say this because, first, there is continued attack on the people as shown by the militarization in the countryside. Nothing has changed and political repression in the rural and urban centers continues. The record in the three years of the Ramos administration is that there have been 2,098 victims of politically motivated arrest,... There were 170 victims of political salvaging. There are over 100 dead in cases of politically motivated massacres. There were 130 cases of forced evacuation which victimized hundreds of thousands of civilians. These occurred only in the course of three years of governance.... Second, there exist politically repressive decrees and laws. Despite the repeal of RA 1700 the trend is a new form where political cases, even agrarian cases, are criminalized. There is also a more sophisticated form of repression in the form of contractualization of labor where the three basic rights of workers are deprived,... Third, is the militarization of the civilian bureaucracy. Today there are 52 military officials appointed to sensitive and strategic agencies of government; 40 of them are generals. Related to this, it is not surprising that the very officers of the Marcos dictatorship have returned to power, the martial law architects, beneficiaries and implementors are at the helm of power.
>
> So we were not surprised by the anti-terrorism bill because of the existence of fascist rule. At the minimum, the anti-terrorism bill can be used to replace the repealed RA 1700. The anti-terrorism bill is a big step, a qualitative and substantive step towards the removal of the democratic trappings or limitations in order to use a level of greater violence against the people. This demonstrates an escalation of the fascist hand, the iron fist.[15]

Four versions of the anti-terrorism bill exist; three of the versions were formally submitted to Congress, while the fourth, prepared by the Department of Justice, was submitted to the Joint Legislative-Executive Development Advisory Council; but was not adopted by any member of Congress. All versions claimed to have the same purpose: to eradicate terrorism (either local or international, or both). All of them focused on factional terrorism and were silent on state terrorism. The provisions of the four versions of the anti-terrorism bill are presented in the table on the following page.

The table shows that the four versions viewed terrorism as a violent attack, claiming lives and property, aimed at achieving a political (or, in the case of one version,[16] religious) objective. Prohibited acts constituting terrorism in all versions were essentially the same; even the language was strikingly similar. Increased powers granted to law-enforcement officers (the authority to inquire into bank accounts, to intercept private communications, to keep persons under arrest without warrant for longer periods of time, etc.) were found in three[17] of the four versions. Three of the four versions punished terrorism with death.[18] One version, Senate Bill No. 264, differed from the others in that it focused on acts of terrorism were committed by aliens and foreign nationals. Yet the acts of terrorism were almost the same as those in the other versions. While the bill did not grant law-enforcement officers the same broad powers as the other versions, it nonetheless removed currently applicable legal and constitutional safeguards in administrative proceedings.

Civil Society Opposition to the Anti-terrorism Bills

The anti-terrorism bills provided the impetus for civil society intervention. The crux of the debate between civil society and the state over these bills revolved around the very questions National Security Council Director Jose T. Almonte raised during his testimony before the joint hearing of the Senate committees on national defense and security, foreign relations, justice and human rights, and finance: "Is terrorism real or not, or is it imagined? What is the nature, the character of terrorism? What is the environment in which terrorism operates? These are among the fundamental questions...."[19]

House Bill No. 206

Title An Act Defining Terrorism and for Other Purposes

Terrorism Defined use of violence or any means of destruction, or threat or intimidation to use violence or any means of destruction, to advance a political cause, usually resulting in any of the following: destruction of lives or properties, deprivation of personal liberties, creating a state of fear in the public mind, coercing or influencing people's behavior, and undermining the confidence of the general public on the government

Prohibited Acts Constituting Terrorism hijacking or sabotage; seizing or detaining, threatening to kill or injure, another individual in order to compel a third person, including government, to do or abstain from the performance of any act; violent attack on an internationally protected person; assassination; use of biological or chemical agent or nuclear weapon other than for mere personal monetary gain; preparation or planning of terrorism activity; gathering of information on potential targets; providing any type of material support; soliciting funds; conspiracy to commit terrorism; manufacture of instruments of terrorism; trafficking dangerous chemical substances or instruments of terrorism; linking up with or soliciting or receiving support; publication or printing of manuals relating to the preparation of bombs or other explosives; allowing the use of one's premises for any meeting of a terrorist group; membership in a terrorist organization; and interference in the apprehension, trial or punishment of a terrorist

Powers Granted Law Enforcement Officers authority to intercept communications; authority to inquire into bank accounts; authority to keep persons arrested without warrant for as long as 72 hours before presenting them before the proper Court; granting incentives to those terrorists who collaborate with government; outlawing terrorist organizations

Penalties reclusion perpetua to death

Table of Anti-Terror Bills

Senate Bill No. 264

Title An Act to Protect the State Against Aliens and Organizations Engaged in International Terrorism [Amending the Philippine Immigration Act of 1940]

Terrorism Defined None

Prohibited Acts Constituting Terrorism [aliens] advocating, teaching or engaging in the overthrow by force and violence of government or any of its political subdivisions, or in the conduct of coercion, intimidation or other violence upon persons, communities, religious organizations, foreign government, for the purpose of promoting or opposing any individual or collective political, moral or spiritual belief advising, advocating or teaching assault or assassination of public officials and of internationally protected persons; advising, advocating, teaching or engaging in the unlawful destruction of any property within or outside Philippine territory, for the purpose of promoting or opposing any political, moral or spiritual belief, including destruction of intellectual property, data, information and any part of the environment or natural resources; knowingly a member of or affiliated with any organization or group that is advocating, teaching or engaging in the execution of such beliefs or doctrines; participating in or lending material assistance to the dissemination or execution of such doctrines, directly or indirectly, including in the guise of moral, spiritual or political guidance, whether participation or assistance was committed within or outside the country; taking part in any manner in any overt or covert conspiracy within or outside the country in which any of the acts mentioned above has been advocated, planned or carried out in whole or in part; or possessing, transporting or accepting, delivering or utilizing within the country such quantities or qualities of explosive, corrosive or other hazardous material, including nuclear material and biological or chemical agents

Powers Granted Law Enforcement Officers conduct of ex-parte hearing whenever evidence to be submitted by government, as determined by Secretary of Justice, tends to prejudice national security; barring petitions for certiorari or other extraordinary relief placing burden of proof on accused alien

Penalties deportation of aliens

Senate Bill No. 1353

Title The Anti-Terrorism Act

Terrorism Defined None

Prohibited Acts Constituting Terrorism causing or threatening to cause the wanton destruction or loss of lives, property, or personal liberties, or massive and unjustifiable destruction of the environment, or the creation of a state of public panic, in order to advance an ideological, political, religious, cultist and/or personal cause or purpose; hijacking of any means of transportation; taking or threatening to take hostages in order to compel, coerce, force induce or pressure another person, including government or any of its agencies or instrumentalities, to perform or abstain from any act or decision; assassination or threatening to assassinate the President, Vice President, Chief Justice, Senate President or House Speaker or any other national leader or prominent public figure or internationally protected person; kidnapping or threatening to kidnap the President, Vice President, Chief Justice, Senate President or House Speaker or any other national leader or prominent public figure or internationally protected person; using or threatening the use of arson, noxious or poisonous substances, biological or chemical agents, radioactive materials, nuclear devices, bombs or explosives or any other kind of lethal weapons; allowing the use of one's premises as a meeting or hiding place of any member of a terrorist organization or as a place to prepare or plan the crime of terrorism, or as a staging area or launching point for terrorism; participation in the preparation or planning of terrorism, in establishing or maintaining, or serving as, contact or link with any domestic or foreign terrorist organization; membership in a terrorist organization; gathering information on potential objects or targets; manufacturing implements or instruments of terrorism; transporting noxious or lethal substances; providing any material support or assistance; procuring weapons, bombs, explosives, devices; providing training; soliciting funds, food, medicine or any material

Powers Granted Law Enforcement Officers authority to intercept communications; authority to inquire into bank deposits; authority to keep persons arrested without warrant for as long as 30 days before presenting them before the proper Court; authority to sequester, forfeit and freeze all assets; granting incentives to terrorists who collaborate with government; authority to conduct warrantless arrests; creation of Anti-Terrorism Council

Penalties reclusion perpetua to death and fine not to exceed One Million Pesos

Department of Justice Version

Title An Act Punishing the Crime of Terrorism by Amending Article 123 of Section Three, Chapter One, Title One, Book Two of Act Numbered Thirty Eight Hundred and Fifteen, Otherwise Known as the Revised Pénal Code, and for Other Purposes

Terrorism Defined when an individual acting for, or an aggrupation, organization, congregation or band of people come together with the intent to create or sow common danger or a state of terror, fear, panic and chaos on the general public, or in order to coerce or intimidate the public or the government into granting its demands, or to undermine the confidence of the public in the government, through the use of force, intimidation, or violence, or by all means possible and by every method available resulting in the deprivation of personal liberty, or destruction of lives and property to achieve a predetermined aim, goal or purpose

Prohibited Acts Constituting Terrorism hijacking, sabotage or any other act tending to disrupt the operation of public utility installations or any public conveyance or commercial and industrial centers; seizing or detaining any individual or group with threats of bodily harm for the purpose of preventing government or any of its instrumentalities from performing a lawful act or to coerce it to perform any act; assault on an ambassador, minister plenipotentiary, chief of mission, diplomat, consular agent or other internationally protected person; assassination; manufacture or use of any biological or chemical agent, nuclear weapon or device of mass destruction; wanton destruction of natural resources; provision of material, financial or physical support to terrorists; preparation and planning of acts of terrorism; gathering of information on potential targets; providing any type of material support or training; solicitation of funds or other things of value; conspiracy and proposal to commit terrorism; production and manufacture of explosives or incendiary instruments or devices; trafficking in dangerous chemical or biological substances or instruments of terrorism; linking up with, soliciting or receiving support from foreign entities; membership in a terrorist organization; allowing the use of one's premises by any terrorist group; interference in the apprehension, trial or punishment of a terrorist

Powers Granted Law Enforcement Officers authority to intercept communications; authority to inquire into bank deposits; authority to keep persons arrested without warrant for as long as 72 hours before presenting them before the proper Court; authority to seize and freeze assets; outlaws terrorist organizations

Penalties death

To dispel any doubts as to whether a state of terrorism existed in the country or whether the threat of terrorism in the Philippines was real enough to justify the anti-terrorism bill, Enrile proposed that the Senate committees hearing the anti-terrorism bills "call on the President to declassify the briefing material that was given to [the senators] by General Angelo Reyes of the Intelligence Service of the AFP... about the over-all security in Mindanao." There were no objections to Enrile's motion. However, the committees adjourned into executive session to be briefed by the intelligence community.[20]

The state avidly believed that terrorism is a real threat to the safety and security of the nation and the people. This belief was based on an analysis of intelligence reports and other classified information. Unfortunately, this information was not shared with the general public.

Hence civil society actors, who were not privy to any of the briefings conducted by the agents of the state, refused to believe government's analysis of the situation and so opposed the bills. They staunchly believed that the state's reasons for the anti-terrorism bills had no basis in fact.

In addition, civil society actors also opposed the bills on four major points: first, the bills signaled the return of martial law or authoritarian rule to the country, considering that the proponents of the bills were the very same persons who implemented martial law in the past; second, the bills contained provisions which were incompatible with fundamental rights and freedoms; third, the bills themselves were severely flawed and were thus subject to abuse; and fourth, the bills could not — and did not — address the problem of terrorism in the country.

Civil society actors opposed the anti-terrorism bills because they feared a return to authoritarian rule. The bills, they believed, were "reminiscent of Proclamation No. 1081 and P.D. No. 173" and "revived martial law decrees."[21] "Taken and interpreted together with other administration measures and initiatives, these bills show an unmistakable drift toward martial law."[22]

> The anti-terrorism bills are an expanded, more vicious version of the former Anti-Subversion Act and all the repressive Marcos presidential decrees combined that were used to arrest, jail, torture and salvage tens of thousands of Filipinos who opposed authoritarian rule. With such laws in place, the Ramos regime need not declare martial law. Such legislation in effect recreates martial law.... Let us not forget the lessons of martial law. That those who asked us to sacrifice our freedoms in exchange for prosperity only led us to greater poverty. That those who spoke of saving the republic worked only to perpetuate themselves in power.[23]
>
> Attempts by the government to legitimize state repression by legislation, coercion and deception manifest a deliberate revival of martial law decrees, and establish a police state parallel to martial rule.[24]
>
> The anti-terrorism bills generally describe a scenario where the police and military will be given extra powers against suspected terrorists. One power to be given was for the military to be able to detain and search a person under suspicion without any warrants. This, the Church believes, will create a gray area in our justice and political system that can be usurped by the powers that be. The intention may be to combat terrorism in the country, but at the same time, it "opens the back door to martial law."[25]

Human rights organizations also opposed the bills because they believed that these contained provisions that violated fundamental human rights:

> The Anti-terrorism Bill "is a blatant attack on the fundamental rights and freedoms of aliens and foreign nationals in the Philippines" as it "denies their fundamental rights...particularly to be presumed innocent; to due process and fair trial; and to an effective remedy for redress of grievances."[26]
>
> To confound matters further, as a complementary measure, the proposed bills seek to equip law enforcers with the following extra powers: authority to intercept communications, authority to inquire into bank deposits, sequestration, seizure or freezing of assets of suspected terrorists, prolonged period of detention without charges (72 hours... and extendible to 30 days); and warrantless arrests based on reasonable ground to believe (or reasonable belief) instead of personal knowledge. There is no doubt that these methods and devices constitute limitations on basic rights and freedoms protected under the Bill of Rights of the Constitution, specifically, the rights to due process and equal protection, to privacy of communication and correspondence, free speech, assembly or association, and presumption of innocence. While it is true that these rights are not absolute, any limitation thereof must pass the tests of reasonableness and necessity. However, given the vague and over-broad conceptualization of terrorism, the bills fail the tests miserably. As such, terrorism as defined in the bills cannot serve to justify any proposal to limit a constitutionally-protected right.[27]

The Roman Catholic Church, through the Catholic Bishops' Conference of the Philippines, also opposed the anti-terrorism bills:

> It is absolutely impossible for justice, peace and development to flourish in a climate of violence and criminality.... To deter and detect crime, our legislators have proposed various bills. Doubtless their intentions are laudable — at face value. But we strongly reject proposed provisions that threaten the basic liberties of our people such as tapping wire and cable communications, prying into bank deposits and financial papers, arresting and detaining people without any warrant — all on the basis of suspected terrorist intent or of committed crime. Such measures give the distinct impression that the very means supposedly intended to curb terrorism will be used to terrorize citizens themselves or curtail legitimate dissent.[28]

Lawyers and lawyers' groups also opposed the bill because, in their view, the bills were themselves defective and susceptible of abuse:

> Those of us who took a stand at EDSA a decade ago, and thought we were freedom fighters, would be terrorists *pala* for intimidating the Marcoses into leaving. Every rally and every demonstration and even letters to editors, manifestos and pamphlets may be considered as forms of intimidation.[29]
>
> The potential effects of the Act against legitimate dissent could never be underestimated. Protest actions such as those sparked by the death of Flor Contemplacion and the rice shortage could be banned, lest they ignite terrorist passions.[30]

> The definition of terrorism is indistinct and hazy; under this definition, any legitimate activity of any group or congregation (including religious?) may be considered as an act of terrorism. Debate on public issues, peaceful rallies and demonstrations, para-liturgical celebrations that touch on social realities, labor union activities and student protests may be misconstrued as acts of terrorism.[31]

Other civil society actors also asserted that: "Terrorism is both *state* and *factional* terrorism. The bill[s are] silent on state terrorism."[32]

State and Civil Society Configurations in the Context of the Anti-terrorism Bills

Advocating the anti-terrorism bills were various state actors from two branches of government: the President, the DILG, the Department of Justice, and the Armed Forces of the Philippines, on behalf of the executive; and several congressmen and senators, on behalf of the legislature. All state actors who proposed the bill firmly believed that the anti-terrorism bill was an instrument needed to combat terrorism in the country. They anchored their belief on information in their possession on the extent, nature and operations of both foreign and domestic terrorists in the Philippines.

President Fidel V. Ramos, former chief of the Philippine Constabulary under martial law, and former chief of staff of the Armed Forces of the Philippines under the Aquino administration, was elected President in 1992 by less than one-fourth of all Filipino voters.

His call to legislate an anti-terrorism bill was heeded by the DILG, one of the bill's chief proponents. The DILG in fact submitted the first version of a terrorism bill as part of its Legislative Agenda shortly after the opening of Congress in 1995. At that time, the Department was headed by Secretary Rafael Alunan III, who was among the more active defenders of the bill. In February 1996, in Davao City, Alunan "described as 'stupid' the discussions on the controversial anti-terrorism bill that Malacañang wants passed."[33]

Also supportive of the anti-terrorism bill was the Armed Forces of the Philippines, particularly its intelligence service, which provided much of the information to government on the matter.

The Department of Justice also supported the anti-terrorism legislation by submitting its own version of such a bill. Heading the department, and responsible for submitting its own version of an anti-terrorism bill was Secretary Teofisto T. Guingona, Jr. The department maintained that the anti-terrorism bills were necessary "because we feel that our present laws cannot really sufficiently address the problem." It asserted that "the terrorists are not common criminals. They are equipped with state-of-the-art instruments and they operate internationally, so we cannot just address terrorism as a common crime in the Philippines just like murder, homicide, rebellion or even just physical injuries. There's more to it than the mere harm done to ordinary people."[34]

In the House of Representatives, the anti-terrorism bill was submitted by Parañaque Rep. Roilo Golez. In the Senate, two senators proposed the enactment of an anti-terrorism bill. Mercado filed a bill focusing on international terrorism while Enrile proposed the enactment of an anti-terrorism bill with features very similar to the versions filed by Golez and the DILG.

On the other hand, opposing the anti-terrorism bills were the civil society actors — institutions, organizations and individuals separate and distinct from the state, such as the Church (Catholic and Protestant), political formations (coalitions or movements of concerned individuals, non-government organizations, professional and business associations, people's organizations, cause-oriented groups, sectoral associations, etc.), human rights groups, lawyers associations, sectoral groups, among others.[35]

The Roman Catholic Church, whose scope of influence in the Philippines, given the sheer number of Filipino Catholics, cannot be denied, strongly opposed the anti-terrorism bills. Through the Catholic Bishops' Conference of the Philippines — the association of all Philippine bishops — the Catholic Church publicized its opposition to the anti-terrorism bills through a pastoral letter read in all Catholic churches in masses throughout the country. In their pastoral letter, the bishops vowed to oppose any move toward military dictatorship. Manila Archbishop Jaime Cardinal Sin also opposed the anti-terrorism bill: "We as shepherds must be sentinels on duty, to make sure that our nation's freedoms will not be brought down again.... Even now there are signs again, maneuvers in our political landscape which give grounds for fear that the authoritarianism we have put aside may be gathering forces to reappear and oppress our people again." Bishop Orlando Quevedo also warned: "The Church has learned from the experience of martial law, and the Church will move immediately if there is an indication of its return."[36]

The Association of Major Religious Superiors in the Philippines (AMRSP), formed in 1974, also strongly opposed the anti-terrorism bills, because these "endanger the democratic freedom of the people" and "threaten life and the sustaining conditions of life in the country."[37]

Even Catholic charismatic groups, such as El Shaddai, opposed the bills. Its leader, Mike Velarde, publicly asked government to shelve the anti-terrorism bills: "Policemen do not need extraordinary powers. What they need is the understanding of our population. No anti-terrorism bill or extraordinary powers given to the police would deter crimes. The anti-terrorism bill will bring no good."[38]

The United Church of Christ in the Philippines (UCCP) and the National Council of Churches in the Philippines also opposed the terrorism bills. On January 30, 1996, Bishop Hilario M. Gomez, UCCP general secretary issued a statement opposing the anti-terrorism bills: "Recognizing their intention to curb all forms of terrorism and violence, we nevertheless find the bills to be unnecessary and far more dangerous to the welfare of the people and are a threat to peace as a whole. Our faith perspective parallels the position of the Free Legal Assistance Group (FLAG), finding the bills to be: superfluous because they are essentially redundant; unethical and immoral because they can allow individuals or institutions the power to violate a person's basic civil liberties even on a slight suspicion; and contrary to the will of God to respect and love our neighbors as we love ourselves (Matthew 22:39; Mark 12:31). These bills only violate the dignity of each human person created in the image of God."[39]

Former president Corazon C. Aquino took a position against the anti-terrorism bill, believing that the Filipino people will actively struggle against any reimposition of martial law.[40]

The business sector also opposed the anti-terrorism bills. Three business groups, the Philippine Chamber of Commerce and Industry, the Makati Business Club and the Federation of Philippine Industries "expressed fears that the anti-terrorism bill... would scare away investors, instead of projecting a country with a stable peace and order condition."[41]

In time, two major political formations emerged to oppose the anti-terrorism bills. The Coalition Against State Terrorism (CAST) was founded on January 19, 1996 in Quezon City, by 24 organizations, some of which did not belong to the Philippine Alliance of Human Rights Advocates (PAHRA). The latter initiated the formation of this coalition because it believed that it had an obligation to stop the passage of the anti-terrorism bill.[42] CAST was a "coalition of freedom-loving organizations and personalities whose objective is to stop the passage of repressive bills."[43] It was composed of more than 20 non-government organizations and people's organizations from the human rights community, church, peasants, women, health, urban poor, internal refugees, indigenous peoples, professionals and small businessmen, and concerned individuals who, because of their experiences under the repressive martial law regime, firmly opposed any form of domination or suppression of the citizenry. CAST's membership was a mixture of highly politicized citizenry and ordinary citizens.[44] CAST's objectives included: "(1) to stop the passage or enactment into law of the various anti-terrorist bills and measures in Congress; (2) to rally the people against the threats to civil liberties, human rights and democracy as represented by the anti-terrorist bills and measures; and (3) to develop capabilities in defense of civil liberties, human rights, and democracy among various sectors of our people."[45]

The Network Opposed to Martial Rule was founded on January 26, 1996, and was composed of more than 100 civil libertarians, most of them victims of the Marcos dictatorship. The Network was a broad front against the anti-terrorism bills: "We, who have seen and suffered the grievous usurpation of state power, the mindless trampling of civil liberties and wanton violations of human rights under the Marcos dictatorship, cannot and will not brook a return to martial rule — whether formally declared or not, under whatever guise or amendment."[46]

The Network was an initiative of the Bagong Alyansang Makabayan (BAYAN), which at the height of the anti-terrorism debate viewed the anti-terrorism bill as equivalent to martial law. At that time, BAYAN believed that the bills would give the state practically all the power it needed to implement a campaign to curtail civil rights and suppress the opposition without any need to declare martial law. BAYAN also believed that the government needed the anti-terrorism bills in order to substantially change the form of rule in the country and to attract support from the government of the United States. The Network was successfully launched because of the "public phobia of martial law among the rich, middle class, even the ruling elite."[47]

Among the human rights groups which opposed the anti-terrorism bills were Karapatan (Alliance for the Advancement of People's Rights), Task Force Detainees of the Philippines and Families of Victims of Involuntary Disappearances (FIND).

The Coalition for Peace and the National Peace Conference also expressed their opposition to the bills, finding them "ill-timed, as government is in the midst of peace negotiations that have human rights and political reforms on their agenda."[48]

Even sectoral organizations challenged the anti-terrorism bills. The Kilusang Magbubukid ng Pilipinas, a peasant organization, called the anti-terrorism bills the embodiment of "all the ingredients of open fascist rule."[49] The fishermen's group, Pamalakaya-Pilipinas also opposed the bills because "without formally declaring martial law [government] would have blanket authority to place the country under authoritarian rule."[50]

Seven of the country's biggest labor centers (Trade Union Congress of the Philippines, Bukluran ng Manggagawa Para sa Pagbabago, Alliance of Progressive Labor, Labor Advisory Consultative Council, Lakas Manggagawa Labor Center, National Federation of Labor and National Federation of Labor Unions) united to oppose the anti-terrorism bill because it was "patently anti-labor and anti-strike." The group's combined strength can "easily bring two million workers from all over the country out in the streets to join the protests."[51]

Among the lawyers' groups, the Free Legal Assistance Group strongly opposed the anti-terrorism bills, viewing them as attempts "to stifle all forms and manner of political dissent under the pretext of fighting terrorism."[52] This opinion was widely shared by other lawyers' associations, including the Public Interest Law Center, and the Movement of Attorneys for Brotherhood, Integrity and Nationalism, Inc.

The array of contending actors involved in the anti-terrorism bills can be lined up as follows. Actively pursuing the bills were the President, the President's political party and party-mates, the Departments of Justice and Interior and Local Government, the Philippine National Police, the Armed Forces of the Philippines, together with the full resources of their institutions (manpower, financial resources, access to the media and other avenues of communication, intelligence information, information from foreign governments, etc.), and several congressmen and senators.

Actively opposing the bills were the Church, concerned individuals (such as the former President, retired justices of the Supreme Court, and other opinion leaders), the business sector, sectoral organizations (peasants, farmers, workers, urban poor) with large organizational following, human rights groups, professional associations, non-government organizations — all of whom influence public opinion.

Direction of Flow of Influence Between and Among State and Civil Society

In the context of the anti-terrorism bill, both the state and civil society exerted mutual, though largely unequal, influences on each other. The flow of this influence occurred at three levels: among state actors, between the state and civil society, and among civil society actors.

Within the state, many state actors differed in their opinions regarding the measure. These state actors also exerted influence on each other.

The President, although fully supportive of the anti-terrorism bill, could not count on the full support of his own party-mates in the Lakas-NUCD nor on the Lakas-Laban coalition. Several party members of Lakas-NUCD themselves did not support the bills. Among those who opposed the bills were Reps. Bonifacio Gillego, Jose Zubiri, Antonio Cuenco, Gregorio Andolana, Hernani Braganza (the President's nephew), and 29 of the 36 Lakas congressmen from Mindanao. Even the President's own sister and party-mate, Sen. Leticia Shahani refused to support the anti-terrorism bills, saying: "I am for taking a stand on terrorism, but I would like to be very careful about the violations of human rights and I certainly would not want a return to martial law under the guise of protecting the citizenry against terrorism."[53]

Because of the diversity of opinions, the President and Speaker Jose de Venecia invited 135 Lakas congressmen to a caucus on January 20, 1996 at Hotel Rembrandt in Quezon City to ensure the passage of the anti-terrorism bill. At the end of the caucus, Executive Secretary Ruben Torres threatened the Lakas congressmen who opposed the anti-terrorism bills with party discipline if they "still criticize the administration or they speak differently from the program of administration. ... We will impose party discipline which is suspension, expulsion, etc."[54] This warning, however, did not faze the Lakas congressmen who maintained their opposition to the measures.

Even House Speaker Jose de Venecia, a staunch Lakas member, later withdrew his earlier support for the anti-terrorism bill, and announced: "I cannot endorse any bill which will endanger human rights and liberties. The government has shown it has the capability to protect the people without taking extralegal measures.... The anti-terrorism bill will only divide the country. ... We in the House will not accord it political priority. We are now definitely going to put the anti-terrorism bill in deep freeze because it (is open) to abuse and caused alarm among the people." He admitted the bill was "dividing our people and Congress."[55]

The Lakas-Laban coalition, born just before the May 1995 elections, also showed signs of a breakup over the anti-terrorism bill. Rep. John Osmeña of Laban said: "Laban will never be a party to the imposition of a disguised martial law and a regime of state terror. It is time Laban asserts itself as a political party founded on democratic ideals and nourished by the martyrdom of Ninoy (Aquino)."[56] Rep. Edcel Lagman called on Laban to "consider severing ties with the ruling coalition, and take part in a rejuvenated opposition to fight the administration's determined design to wield authoritarian power through state terrorism."[57]

The Legislative-Executive Advisory Council, however, remained steadfast in its support of the anti-terrorism bills.

Even the Department of Justice which, on instructions of the President drafted its own version of the bill, was not fully solid in its support of the anti-terrorism bills. Asst. Sec. Ricardo Paras admitted that "the criticisms to the DILG bill were valid, which is why we already worked on improving the bill. When you read the DILG version, there are provisions which are really objectionable; we objected to it, which is why we came up with an improvement. You know the police and DILG like quick results so we said it couldn't be and so we have to refine."[58] The department prepared its own version, which, however, came under criticism by a senior

prosecutor there, who insisted on remaining anonymous. He expressed alarm at the bill and said even threats constitute terrorism under the bill and its definitions were vague, leaving the bill open to abuse.[59]

Not all local government officials supported the anti-terrorism bills. Several city and provincial mayors, governors, and board members also publicly announced their opposition to the anti-terrorism measures.

Even within the ranks of the Department of National Defense and the Armed Forces of the Philippines, certain officials did not support the anti-terrorism bills. Defense Undersecretary for Civil Relations Fernando Campos prepared a confidential brief on the anti-terrorism bills which he submitted to Defense Secretary Renato de Villa on January 19, 1996 for "consideration on a policy option." He stated that the terrorist threat "has not reached the dimension of a national security breakdown — sufficient to justify curtailment or suspension of the traditional civil liberties." He warned that without an independent and popular mass support, the two bills would "hasten the collapse of the Ramos administration." Even the efforts to improve the two bills at this stage would seem "premature unless a national consensus has been arrived at by the civil-politico leadership to push through the bills notwithstanding the strong public opposition," he said. Campos added, "Only on one condition, however, may the administration consider it, and that is, if there is a mass-based political movement to support the administration's move... The irony of the situation is that the DND-Armed Forces as the department of last resort might find itself ultimately protecting and defending the people who will be demonstrating against the two bills." He ended his brief with the following recommendations:

> Because the administration is perceived to be weak politically, a mass-based organization to support the clean up drive of the administration should be organized with membership across the country.... In view of the intense political color of the two bills, it is believed preferable for the DND-AFP to adopt a more neutral stand by advocating for a reorganization law[60] and by concentrating on the improvement of the efficiency of the law-enforcement agencies as well as the social or economic planning and program implementing agencies with the help of a political movement that is mass-based and national in scope.[61]

Defense Secretary Renato de Villa quickly clarified that the paper prepared by Undersecretary Campos represented the "personal viewpoints" of Campos and the comments and proposals contained therein "were not supported by any study and therefore were not given any consideration by the Department of National Defense." The paper has since been returned to Campos, without any department action.[62]

Within the Senate, only four senators were perceived to be supportive of the anti-terrorism measures: Enrile, Mercado, Vicente Sotto III and Juan Flavier. In August 1995, Enrile himself opposed the Anti-Terrorism Act, because "it will make it easier for law enforcement people to prosecute if ever, but it will pose a clear and present danger to the country, to the people, to their liberties." In particular, he opposed the definition of terrorism as propounded by the DILG, as well as the grant of authority to law-enforcement officers to tap the communications of alleged terrorists.[63] Yet, barely five months later, Enrile filed his own version of an anti-terrorism measure which contains the very provisions he opposed in August

1995. It appeared that Enrile was largely influenced by the briefing material provided the senators by the Intelligence Service of the Armed Forces of the Philippines, among others.[64]

The Senate conscience bloc (Senators Edgardo Angara, Ernesto Herrera, Blas Ople, Gloria Macapagal, Marcelo Fernan, Francisco Tatad, and Franklin Drilon) joined by Senators Raul Roco, Heherson Alvarez, Ramon Magsaysay, Jr., Neptali Gonzales, Miriam Santiago, Leticia Shahani and Sergio Osmeña III, staunchly opposed the measures, and called on the public to continue opposing the anti-terrorism bills.

At the House of Representatives, the progressive bloc (represented by Reps. Joker Arroyo, Edcel Lagman, Bonifacio Gillego, Gregorio Andolana, Antonio Cuenco, and Wigberto Tañada, among others), together with many congressmen from the Nationalist People's Coalition, also opposed the anti-terrorism bills.

The nature of the interaction among state actors and the influence they exerted on each other is difficult to describe. At certain levels, the relationship between state actors was hostile (between and among the legislature and the executive, within party ranks, within party coalitions, within institutions, etc.); at other levels, the relationship could be best described as cooperative and supportive.

Insofar as the flow and direction of influence between the state and civil society, the nature of the interaction was generally adversarial, with civil society actors pressing on government to stop the passage of the anti-terrorism bills.

As a result of the massive public opposition generated largely by civil society actors, the proponents of the anti-terrorism bills were influenced to a certain degree. "The proponents of the bills ... back tracked; they lay low. Even Torres. Golez himself said he would limit the scope of his own version from local to international terrorism. Because of the backlash of public opinion, the very senators who were diehard proponents like Mercado slowed down. The influence on them was very very large."[65]

As a result of the influence exerted by civil society actors, state proponents were obliged to defend themselves.

The President himself was compelled to make public statements disclaiming that the bills were part of a plot to create a martial-law situation. [He claimed such allegations] were "preposterous and, worse yet, irresponsible. If some politicians and media practitioners are resurrecting bugaboos about martial law, let me simply remind them that it was your humble servant, Ramos, who mobilized the military and police to help overthrow the dictatorship in February 1986.... The result of all this is greater democratic space and internal stability for all — including for politicians and the media, including for our most severe critics.... All these, I, as your President, will continue to protect and defend."[66]

Enrile, one of the major state actors pushing for the bill's passage, was likewise compelled to distance himself from any efforts to impose martial law and from actions of the executive:

> I am just stating this, Mr. Chairman, to allay the fears of the people that I am planning to institute martial law. Far from it, I am not a lackey or errand boy of Malacañang. They cannot dictate on me, and I am not dictating on them, I did not ask them for permission to file my bill. They did not

order me to file this bill or suggest to me. I did it in (sic) my own as a free agent.[67]

Enrile also displayed a willingness to accommodate adverse public reaction, as seen in the transcript of the joint hearings of the Senate committees on national defense and security, foreign relations, justice and human rights, and finance, held on February 5, 1996.

Likewise, Rep. Golez, the architect of the anti-terrorism measure in the Lower House, also accommodated adverse public reaction by "proposing that my HB 206 (Anti-Terrorism Bill) cover only international or foreign terrorists. Local groups should be excluded from the definition of terrorism.... This is in accordance with the pronouncements of the DILG/PNP that they are primarily concerned about international terrorists, as well as to allay fears that the measure shall be used by the government to wage war on its own people."[68]

In the end, the President was constrained to distance himself from the bill filed by Enrile, and instructed the Department of Justice to prepare and submit its own version instead. Public opposition to the Department of Justice version — and to all forms of the anti-terrorism measure — later required the President to withdraw support for the bill, and to place it on the back burner. Hence the anti-terrorism bills were shelved.

With the introduction of the anti-terrorism bills, the relationship between the state and civil society was strained. It was a fractured relationship, generally adversarial in nature.[69]

The civil society actors also exerted influence on each other. Two political formations agreed that they first heard about the anti-terrorism bills from another civil society actor, a lawyers' organization. The position papers prepared by this organization called attention to the anti-terrorism measures, and helped shape the positions undertaken by various civil society actors on the issue.[70]

Although civil society actors strongly opposed the anti-terrorism bills, there emerged not one unified opposition, but two major political formations, participated in by various individuals and organizations. Many of the other civil society actors, with the exception perhaps of the business sector and several individuals such as the former President, joined one or the other of the two political formations in expressing their opposition to the anti-terrorism measures. These formations declined to work with each other:

> There are differences in the appreciation of mandate and understanding of the universality, indivisibility and interdependence of human rights. We are not, however, opposed to working with them, if they are willing to join our activities. In fact, we are quite happy that we were not the only group that struggled against the issue. At least there were many others who opposed the bill. But we think that even if the groups are different, all groups opposed the anti-terrorism bill.[71]
>
> Although there were two coalitions opposed to the anti-terrorism bills, the division or the struggles between them were not clear; what was clear was their opposition to the bills. So public perception was that there was one opposition. Despite the debate, it was not patent to the administration, nor even to us, that there were two groups opposing the anti-terrorism bills.

I think that was not very clear; so the existence of two groups did not really matter.[72]

In reality, the relationship among the two major political formations was influenced to a large extent by the existence of ideological conflicts; the groups did not cooperate with each other, neither did they participate in each other's activities. To some extent, there were terms of competition; thus tensions did arise between the groups.

So within civil society, the nature of interaction between and among civil society actors was neither hostile nor cooperative; however, it cannot be denied that all activities undertaken by all who opposed the anti-terrorism bills, did, in fact, influence the outcome of the discussions on the issue.

Methods of Influence Utilized by Civil Society on the State

As an expression of its opposition to the anti-terrorism bills, and in order to influence the state to withdraw the bills, civil society actors utilized a wide range of methods, which included, among others, mass mobilizations (rallies, pickets, transport strikes), lobbying and dialogues with key state actors, education and information drives (forums, leafleteering, publication and dissemination of primers, statements, posters and other written material), propaganda (media statements, television and radio interviews, press releases, and the like), signature campaigns, international networking and linkages, the issuance of a pastoral letter from the Catholic hierarchy, and consolidation and organizing of the opposition. Persuasion and information were the keys to the campaign conducted by civil society; civil society actors did not engage in coercion or terror tactics.

In January and February 1996, major mass mobilizations, through marches, rallies, transport strikes and pickets, were held nationwide, to protest the anti-terrorism bills, the oil price increase and the imposition of the expanded value-added tax law.

Three nationally coordinated march-rallies and transport strikes/stoppages were staged by BAYAN on January 30, February 8 and February 27, 1996. Several cities in the Visayas and Mindanao were paralyzed, while normal business activity in other cities was crippled. Protesters reached tens of thousands nationwide.[73]

On January 29, 1996, members of another mass organization, SANLAKAS, attended the Senate committee hearing on the anti-terrorism bills, displayed placards and shouted slogans just as the hearing was about to start.[74]

CAST held a picket at the Senate on January 25, 1996, attended by more than 100 members. While the picket was ongoing, the leaders attended the hearing and lobbied the senators; the leaders solicited the support of eight senators and their staff members, who also opposed the anti-terrorism bills.[75]

Members of the Catholic Church, through the AMRSP, and of the Protestant Church, through the UCCP, actively participated in the different marches, rallies, strikes, and pickets held in the months of January and February 1996 to show their opposition to the anti-terrorism bills.[76]

Civil society actors also engaged in lobby efforts and dialogues with key state actors. Lobby efforts were concentrated on soliciting the support of legislators to oppose the anti-terrorism measures. These included participation in the hearings conducted by various Senate and House committees, the submission of position papers on the bills,[77] and personal discussions with various actors. Proponents of the bills were not among those approached by civil society actors.[78]

One civil society actor explained the use of lobbying as a form of opposition and to influence the state to withdraw the anti-terrorism bills:

> While the national democratic movement reaffirms the decisiveness and primary role of armed struggle as a form of struggle and the secondary role of legal militant struggle, this does not necessarily mean shutting out the arena of legal parliamentary action, and even elections. But they have to be situated in their proper places. They are tertiary compared to the principal and secondary forms of struggles. And this is what was applied in our opposition to the anti-terrorism bills. In the main, because the issue at stake is the passage of a law, we utilized the very parliament; we spoke with Reps. Roco, Coseteng, Bobby Tañada, Gillego and many others, and we used this form because we believe this is in the nature of the issue. In our view, because of the nature of the issue, the minimum goal is to thwart or delay the passage of the bill into law, and the maximum goal is to force government to withdraw the bills completely. And, our principles are clear: we cannot allow the anti-terrorism bills to be enacted into laws because as a matter of principle, we cannot allow the curtailment of civil rights and restrictions on the space of legal organizations which would prevent them from reaching the broad masses in order to arouse, organize and mobilize them. So this was our objective. We had a secondary objective, which was to expose the fascist character of the state, of Ramos and his regime. But we wanted to achieve concrete gains, so correspondingly, we exerted efforts to seek out congressmen and senators to oppose the measures.[79]

As a result of the lobbying by CAST and AMRSP, 14 senators and 35 congressmen signified their opposition to the anti-terrorism bills.[80]

The opposition expanded when the Catholic Church, through the Catholic Bishops' Conference of the Philippines, issued a pastoral letter which was read in all masses in all churches nationwide on January 28, 1996. CAST approached Jaime Cardinal Sin, Archbishop of Manila, and sought his support against the bills, because "his clout is quite strong, and there are many parishioners here in Metro Manila and nationwide who listen to him. Besides, many CAST members belong to the Catholic Church. When we spoke with Cardinal Sin, we asked him what his stand was, and he told us that he was against the anti-terrorism bill. He told us that he himself had issued a pastoral letter on the issue; he gave us permission to go to all his parishes within the National Capital Region to discuss the terrorism bill."[81]

The Catholic Bishops' Conference of the Philippines also wrote the President to express its opposition to the bills. The President responded by inviting the bishops to a dialogue at the Palace. The bishops were disappointed with the dialogue:

> In January, the minds of the bishops were made up; they opposed the bills but were ready for a dialogue. The dialogue was held. Usually the dia-

logues with Ramos are not really dialogues; rather he lectures us. What we look for in a dialogue is a two-way discussion, not a one-way sermon. Or we are open to a consultation, not to information dissemination or information campaign. Afterwards, he made it appear that we were backing his proposals, and that after the dialogue he was able to convince us and we were supporting him. We hoped that the consultation would be two-way and we would be allowed to air our side.[82]

The Protestant Church also took a very strong position against the bills, and called upon the President, as a member of the Protestant flock, to withdraw the measures. He responded by inviting the Protestant Church hierarchy to a dialogue at the Palace:

> The President was upset with out statement because he belongs to our church. He himself called, and invited us to a consultation at the Palace, through one of his secretaries... So we went. The purpose was a consultation between the leadership of UCCP and the President. One problem that arose was the President was very emotional because he is a member of our church and the media reported that our church was opposed to the bill. The President picked up our statement on the poor and poverty issue and believed that we were personally attacking him. But we explained that there was nothing personal about the matter and that we were attacking the policy of government. So, during the dialogue, the first hour was very emotional, very tense, because he spoke first and expressed his feelings. After that we agreed that on issues related to the country we would hold regular consultations with the President.... There is a standing agreement that if we would like to bring forth an issue, we will bring it to the President. The dialogue went well, although the President was defensive over the bill, particularly on the anti-poor, anti-poverty issue. But we were very satisfied with the outcome of our dialogue with the President because it seemed to us that he withdrew the anti-terrorism bill; but on the explanation of the anti-poor and anti-poverty issue we were given a lot of data and technical words by the Cabinet which we were not prepared to discuss. Actually, we thought the dialogue would be between the President and UCCP, but the different Cabinet secretaries were all there and they gave us so much data.[83]

Civil society actors also conducted massive education and information drives, holding symposia, fora, and other public gatherings, releasing statements and primers, printing and posting posters, and disseminating leaflets and position papers, on the anti-terrorism bills.

One civil society actor, who actively participated in the education and information drives by giving speeches and lectures in many parts of the country, described the response of the audience in the different public gatherings in which he spoke:

> I listed down the occasions when I spoke on the anti-terrorism bill. ... In almost all the gatherings I spoke before, I cannot recall that any member of the audience was in favor of the bill. Only on one occasion did a member of the audience engage in a debate with me about the bill. This was when I spoke before a political science class at the University of the Philippines and a student said that we needed the anti-terrorism bill because there are terrorists in the country and we need to contain them. But this adverse reac-

tion was an isolated case. Generally, the audience opposed the anti-terrorism bill because for one, they believe this is not necessary. We have sufficient laws to meet this problem. And second, they believe that the bills will be used to achieve the political aims or interest of the powers that be, of the sponsors.[84]

CAST conducted pulong-bahay (house gatherings) on a fairly regular basis for the first two months of 1996.[85] They produced a primer on the anti-terrorism bill and distributed it among its members. They printed posters, posted them in public areas and distributed them among their members; they conducted and participated in various forums, and attended to the invitations of Church leaders to talk on the national situation and repressive bills. Some CAST members initiated discussions on repressive bills within their own constituencies.[86]

AMRSP signed and distributed statements, linked up with other groups, and, in the 1996 AMRSP Convention, endorsed the CAST statement on the anti-terrorism bills.[87]

BAYAN conducted education and information activities at the community level, undertook leafleteering, and mounted cultural presentations to dramatize its opposition to the anti-terrorism bills. The Network Opposed to Martial Rule held a forum on the bills.[88]

Civil society actors also made full use of the media, by holding press conferences,[89] attending radio and television talk shows on topics related to the bills,[90] and submitting letters to the editors of various newspapers.[91]

Other civil society actors also undertook consolidation and organizing activities to strengthen the opposition to the bills. CAST organized chapters in Cebu, Leyte, Baguio, Abra and parts of Mindanao; its membership base expanded to more than 30 organizations.[92]

CAST also conducted a signature campaign designed to "measure the opposition of the citizenry and to use it to pressure government to withdraw the bill." The campaign was directed at soliciting signatures for the Statement of Unity against the anti-terrorism bills.[93]

In addition to gathering signatures, CAST also attempted to influence international public opinion on the measures. CAST linked up with international bodies, informed them of the anti-terrorism bills, and sought their support to oppose the measures.[94]

Civil society actors, however, did not limit their opposition to the anti-terrorism bills, but also packaged their opposition within the context of the Ramos legislative agenda and other proposed bills such as the crime control bill, the anti-racketeering bill, the proposed national security act, among others[95] or within the context of "development aggression" issues and the economic agenda of the state. BAYAN, for instance, packaged its opposition to the anti-terrorism bill under the slogan "Oppose Escalating Poverty and Rising Fascism," which formed the framework for the three mass mobilizations it staged nationwide in January and February against three issues, the oil price hike, the imposition of the expanded value added tax and the anti-terrorism bills.[96]

One civil society actor explains why most organized groups packaged their opposition:

> I think we cannot dissociate this bill from the draconian economic measures like E-VAT and oil, because, with tremendous political opposition, they could conveniently use the anti-terrorism bill to suppress the opposition. So it's difficult to separate the issues. And I think that's one reason why we got public support.[97]

Strengths and Weaknesses of Civil Society Intervention

Perhaps the greatest resource or strength of civil society intervention is "the militant stand of the people, which reached the Church, people's organizations, non-government organizations. Second, the militant activities themselves."[98]

Other civil society actors outlined the strengths of civil society intervention in the campaign against the anti-terrorism bills: ability to mobilize, successful lobby efforts, packaging of the opposition to the bills with other pressing issues, very broad opposition to the bill, and the support of the media.

The state, like civil society actors, suffered from weaknesses. These included the lack of a visible campaign to push for the passage of the bills, since the state limited itself to statements; lack of media support for the state's position; fragmentation within the state itself, with conflicting statements emanating from various state actors; and a lack of appreciation and understanding of the people's experiences during martial law, and the people's sensitivity to any form of repression or dictatorship.[99] These weaknesses of the state added to the strengths of civil society intervention.

In general, civil society actors, with the exception of the Church, shared the same weaknesses: lack of institutional development; lack of financial resources; inability to maintain regular contacts with policy makers; and fragmentation.

CAST, for instance, faced institutional or structural problems primarily because "the secretariat of PAHRA also served as the secretariat of CAST, so it was quite difficult for both to function efficiently. Based on our assessment, it is best to transfer the secretariat work of CAST, particularly in light of the fact that PAHRA now lacks staff. Also, sometimes, some of the activities of the campaign were not well planned or the notices for meetings were not provided in time so sometimes the members could not attend CAST meetings because many of the members are also busy with their own organizations. The second problem was finances; the contributions of the members were insufficient. These problems have not yet been solved. But aside from these problems or weaknesses, there were no other."[100]

Other weaknesses in the campaign against the anti-terrorism bills included: the materials on the issue were largely written in English and in legalese, which made it difficult for people without any legal background to understand; this, in turn, necessitated training or extensive explanations in order for the materials to be properly understood. In addition, civil society actors did not maximize the use of the pulpits and the parishes. Third, civil society actors were unable to mobilize to the fullest the power and strength of the grassroots.[101]

The strengths, however, far exceeded the weaknesses of the campaign against the bills. The strengths accounted for the degree to which civil society actors actually influenced the outcome of the measures.

Degree to Which Civil Society Actors Actually Influence the Political Process

The President officially announced that the anti-terrorism bills would be placed on the back burner, and that government would not certify the bills as part of its urgent legislative agenda. This statement was a clear signal of strategic retreat from a political experiment to reverse democratic consolidation. This retreat was due largely to government's isolation during the campaign, as well as to the loss of control exhibited by the state over the events. The loss of control and isolation are represented by the divisions within the pro-administration coalition, the wedge between Congress and the executive, the realignment of political forces (including, among others, for example, the President's staunchest supporter and partymate, the Speaker of the House). The massive opposition and civil society intervention clearly eroded the legitimacy of the state, compelling it to publicly withdraw its support for the anti-terrorism measures.

Civil society intervention, through massive protests, also facilitated the creation of new alliances, and achieved the impossible in Philippine politics — the closing of ranks by the major Churches against the state. It also galvanized two of the most powerful institutions in the country — the Catholic Church and the business sector. Civil society intervention on the anti-terrorism bills also defined the character of a political class — a class of citizens strong enough to mobilize the power of collective action and to demonstrate the value of an organized and strong response to the anti-terrorism bills. What this class has in common is that through their organizations they stand for values which are widely shared throughout society, and are not restricted to any group within it.

> What did we gain? I think we gained many things. We realized that there is strength in numbers, that if we marshal our resources, we can do something. That realization, that awakening, I think are the gains.[102]

Civil society intervention also reconstructed national political discourse and redefined the terrain of Philippine politics by introducing inflammatory and volatile elements. The protests reopened old wounds and resurrected memories of martial law; they also reflected shared antipathy toward authoritarianism. Indeed, the nation was, for the first two months of 1996, polarized. Controversy and powerful reaction helped shape a broad social and political consensus opposed to the anti-terrorism bills. More than that, "because of the anti-terrorism bill the people have all experienced a deepening of consciousness, a better appreciation of rights and responsibilities."[103]

From the perspective of most civil society actors, the campaign against the anti-terrorism bills was largely successful because it pushed government to temporarily withdraw the measures. Their optimism, however, was tempered with caution.[104] The Roman Catholic Church was also careful about claiming success.[105]

The caution displayed by the civil society actors was validated by the President's call, on April 11, 1996, for the revival of the anti-terrorism measures. His statements clearly revealed that he "favors the merger of the proposed Anti-terrorism Act into the Omnibus Anti-crime Code of 1996, which contains the same controversial provisions."[106] In his keynote address at the opening of the Peace and Order Summit on April 11, 1996, the President said:

> Third, we need to do better in molding public support for measures to fight crime and other threats to public order, such as terrorism. Sadly, we remain prey to demagogues who raise unfounded fears whenever we seek more toughness in our laws to fight crime and terrorism. And the result — as many of our law enforcers have bewailed — is a situation where we can only deal with problems when the criminals and terrorists are already at our doors.[107]

The President's statements were again met by public outcry and criticism.[108]

Conclusion

Civil society intervention in the attempt by the state to legislate the anti-terrorism bills clearly demonstrated the potential of civil society actors to assert themselves, to act as the people's political voice, and to actively influence and even control the political process.

A strong civil society articulates values and is only effective in putting constraints on the state if its component parts — the social organizations — are consistent with the personality, morality and traditions of society. This was clearly seen in the positions taken by civil society actors — positions widely shared by the majority of the people. In this instance, civil society actors were the people's political voice.

The anti-terrorism debate also showed the need for civil society to mobilize itself to control and direct the state; if civil society failed to intervene, to mobilize and to galvanize public opinion, then, in all likelihood, the state would have triumphed in legislating such anti-terrorism measures. The role, therefore, of non-state groups and associations is vital.

In recent Philippine political history, no other legislative project has eroded the legitimacy of the state. The proposed anti-terrorism bill provoked powerful adverse reactions. The opposition and intervention of civil society against the anti-terrorism bills provided the catalyst for a new political realignment and displayed the potential of civil society to influence the political process.

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TRADE & FISCAL POLICY

Dynamics of Civil Society and Government in the GATT-UR Debate in the Philippines *Lessons for Policy Advocacy*

Introduction

The Geneva-based General Agreement on Tariffs and Trade (GATT) was established in 1947 to improve the multilateral trading system in order to raise world incomes and standards of living. Through the years, several multilateral trade negotiations such as the Uruguay Round have been organized. But the agreements reached in the Uruguay Round are by far the most comprehensive and ambitious of all the rounds preceding it. They cover practically all aspects related to international trade, such as agriculture, investment, services, and intellectual property rights. The Uruguay Round of GATT was formally signed in Marrakesh, Morocco on April 15, 1994.[1] The GATT-UR established the World Trade Organization (WTO) as overseer and arbiter of world trade.

Even during the years that the Uruguay Round of negotiations was taking place, interest groups were already raising issues concerning the implications of the trade liberalization regime that would be ushered in by the GATT-UR agreement and the WTO. As in many other countries of the world, the new waves of liberalization are reshaping trade and fiscal policies in the Philippines.

This paper tries to examine the role played by civil society actors in the process of changing trade and fiscal policies, in particular, and economic frameworks, in general. What modes of intervention did they use to put forward their respective positions? Were these fully maximized or underutilized? What factors influence and enhance the active and meaningful participation of civil society actors in trade and fiscal policy-making?

This paper uses both secondary and primary data. Data sources include newspaper clippings, position papers of different organizations, laws, bills and resolutions on, related to, or affected by GATT, books and articles on GATT, text of the Uruguay Round Final Act, Schedule of Tariff Commitments, journals and transcripts of proceedings of the Senate Committee on the Whole on GATT, and public hearings conducted by the House of Representatives, the Senate and the Departments of Agriculture and Trade and Industry. The authors also conducted focus group discussions among sugar farmers and workers, and PO/NGO leaders in Bacolod City. They also interviewed key informants from government and business.

Civil Society and the GATT-UR Debate

Civil Society versus Government

The Executive Assertion: 'Win-win' for the Philippine Economy

As the implications of the GATT agreement began to sink in, the executive branch of government was forced to face criticisms and questions from various social sectors. People started asking questions like, "Who stand to win?" and "Who stand to lose"? under the GATT-UR regime. In response, agencies like the Department of Trade (DTI) and the Department of Agriculture (DA) stepped up an information drive intended to prepare Filipinos for the country's compliance with the GATT-UR agreement. These agencies tried very hard to assuage the fears of many that GATT would be detrimental to their livelihood. The DTI and the DA boldly proclaimed that GATT was not a zero-sum game and that once ratified, it was going to be a "win-win" situation for the country. They also stressed that GATT would be the antidote to the problems of protectionism that strangled the Philippine economy.

A briefing paper prepared by the DTI declared that, "With the liberalization of trade, it is possible for any one country to enjoy a positive-sum outcome." It added that "trade liberalization leads to the better allocation of scarce resources, minimizes distortions in business-economic decision making, and therefore strengthens overall economic performance growth. Therefore, on the whole, a country will come out ahead with freer trade."[2]

The DA, on the other hand, asserted: "At the very least, the country will forgo the benefits...in the form of an annual increase in net export earnings of P3.4 billion, an annual increase of P60 billion in agriculture gross value added, and an additional 500,000 new jobs per year. The country stands to lose considerably more than these projected benefits if it does not ratify the UR Agreement on Agriculture. The country will be regularly confronted with the risk of having its agricultural products arbitrarily slapped with higher tariffs and subjected to other non-tariff barriers. This would considerably decrease the access of our agricultural products to world markets."[3]

Both the DA and the DTI also tried to cast aside the worries of some concerned sectors, like computer storeowners, film and video distributors, students, scientists, local seed growers, and farmers. These sectors were worried that the GATT provisions on intellectual property rights embodied in TRIPS[4] or the Trade Related Intellectual Property Rights agreement will only result in increasing the prices of products they use. The Department of Agriculture came out with a position paper, authored by Secretary Roberto Sebastian, entitled *"Hakuna Matata"* which stated the department's position on intellectual property rights — *nothing to fear.*

The agencies of the executive branch consistently invoked the need to take advantage of the opportunities the country would gained from GATT's Most Favored Nation (MFN)[5] clause. They stressed it was imperative for the country to join the WTO; otherwise, it cannot avail itself of the lower MFN tariffs negotiated in the Uruguay Round. DTI and DA officials gave the assurance that the country's mem-

bership in the WTO would yield beneficial results. But at the same time, they also admitted that GATT would have adverse effects on key economic sectors like garments manufacturing, the corn industry, and coconut production.[6]

The intensity with which government proponents pursued the issues showed that they were eager for the Philippines to ratify the GATT-UR agreement so that it could apply for WTO membership before January 1, 1995, the deadline set for the "entry into force" of the treaty. According to the DTI, "it will be critically important for the Philippines to be a member of the WTO by that time because it is well known that the Philippines' biggest trading partners (the U.S., Japan, and the EU) intend to join the WTO upon its entry into force..."[7] To join the WTO, countries must accept all portions of the UR agreement; they cannot ratify only particular parts of the package. Thus, what some sectors considered as problematic portions of the GATT-UR cannot be excluded.

Senate YES Vote Won, But...

The deadline set by the Geneva-based GATT secretariat for the submission of all legal documents and instruments was December 1994. The Senate, the treaty-ratifying body of Congress, needed to fast track the process so it could meet the deadline. As the Christmas break was fast approaching, the legislators had little time to decide on whether the country should join the WTO. The Senate decided to form a Committee of the Whole to conduct hearings on GATT before the final vote. Senators Blas Ople and Gloria Macapagal-Arroyo were appointed as co-chairpersons.

The committee summoned interest groups, including NGO, POs, business groups, and academics, to present their positions. Arroyo and Ople closed ranks with the officials of the DTI and the DA, as well as those of other agencies like the Department of Labor and Employment (DOLE), in their fierce defense of the bill. The technical consultants and spokespersons of these agencies were summoned to attend all the meetings and hearings held by the Committee of the Whole and later the Senate plenary sessions.

The committee conducted 26 public hearings, four of them outside Manila, from August 24 to November 10, 1994. When the committee hearings were over, Arroyo and Ople submitted their findings. The committee report concluded that GATT would be beneficial to the economy and that the fears of interest groups were baseless. In its conclusion, the report said, "The overwhelming evidence based on rigorous analysis is that GATT-UR will have positive impacts on the economy. Using the PIDS-NEDA macromodel, the behavior of the Philippines was simulated under various assumptions. The results suggest that GATT-UR will result in higher output (GNP and GDP); higher economic activity in agriculture, industry and services; more jobs; lower prices and interest rates; lower budget deficits; and better trade balance position.... The results of the analysis show that the economy will be worse off without the GATT-UR... During the public hearings and consultations, several groups raised fears about the negative employment effects of the country's accession to the GATT-UR. A review of the results from a computable general equilibrium (CGE) model show that these fears are unfounded."[8]

A treaty is ratified only if two-thirds of the senators vote for it. While there were already indications that majority would vote for GATT, a number of senators, based on their pronouncements, remained undecided. These included Orlando Mercado, Leticia Shahani, Rodolfo Biazon, Santanina Rasul, and Raul Roco. Five

senators were known to be against ratification: Wigberto Tañada, Anna Dominique Coseteng, Tito Sotto, Arturo Tolentino, and Ernesto Maceda.

The nationalists in the Senate were not impressed with the computer simulations and the zealous arguments of the GATT proponents. Instead, they steered the debate toward the issue of national sovereignty. Tañada, for example, invoked constitutional provisions he said were violated by the GATT-UR Agreement. (See Annex A.)

For example, various provisions of the WTO Agreement, its annexes 1,2, and 3 and the Ministerial Decisions and Declarations give foreign businesses "national treatment" in countries which are members of the WTO. The senators argued that "national treatment" runs counter to the constitutional guarantee that the economy should be "effectively controlled by Filipinos."

But these arguments lost in the voting. Instead, the Senate passed an anti-dumping law and ensured that safety nets will be given by providing allocations in the 1995 budget for GATT-related adjustment measures. On December 14, 1994, the Senate, voting 19 to five, passed the treaty.

Voices of Civil Society

The Senate's deliberations on GATT, however, turned out to be a rallying point, catalyzing civil society involvement in the debates. Civil society groups, however, did not speak in a single voice as they had divergent perspectives on GATT. But in the end, no matter how varied their positions, these groups succeeded in making GATT a national concern and forced the government to address certain problems that the treaty would bring about.

Using the media and pubic forums, civil society actors engaged government proponents in tit-for-tat discussions on GATT-UR issues. In early 1994, NGOs and people's organizations (POs) formed multisectoral GATT coalitions. These included the Pambasang Ugnayan Laban sa Gatt or PUMALAG and the Pabi-GATT. SANLAKAS, a major political coalition, was also visible in the media. INFORM was set up as an independent group and did not take an anti-GATT position; instead, it called for a massive information campaign and articulated the need to defer ratification until the effects of GATT were fully known.

The leadership of the Catholic Bishops Conference of the Philippines (CBCP) also openly expressed its opposition to the ratification of GATT. Priests and church workers joined in the mass actions. Bishop Teodoro Bacani showed up during the Senate deliberations. After conducting consultations and forums on the issue, the Protestant churches through the National Council of Churches in the Philippines (NCCP) expressed concern about the fate of the economy once GATT is implemented. The Philippine Independent Church (PIC) organized a protest rally and issued a statement opposing GATT ratification.

In the print media, columns and opinion pages became a battleground of ideas. Several columnists dissected GATT and explained why they opposed it. In addition, articles of known GATT critics who were themselves part of groups opposed to the treaty were featured in major dailies.

As the groups that took part in the GATT debates were many and varied, each of them focused on their own concerns and interests. (See Annex B.) The high-

lights of the debate were on: (1) implications of the Agreement on Agriculture on rural livelihood and food security; (2) the macroeconomic impact of GATT; (3) environmental concerns; (4) infringements of the TRIPS; and (5) encroachment into national sovereignty.

Debating the Issues: More Losers than Winners Agriculture Agreement

In the course of the Senate deliberations, critics discovered some errors made by Philippine government negotiators in the GATT-UR. As they examined the fine print of the 22,000-page GATT-UR agreement, they found erroneous computations that had important impacts on Philippine agriculture. These errors were unfortunate because once a negotiated item has been registered in the book, the only recourse to change it is by making a formal appeal to the GATT secretariat.

For example, errors were discovered in the computations of the minimum access volume (MAV) of traded agricultural commodities. Philippine officials submitted the wrong figures on the volumes of live swine, live poultry, pork, poultry meat, and sugar that were traded. The situation appeared benign at first, but in the course of the hearings, it was realized that the errors could have deleterious effects on certain agricultural sectors. Government consultants downplayed the mistakes, saying they were merely technical errors. But they were a cause of grave concern for industry leaders and sectors; they also raised questions on the credibility of the negotiators.

The agreement on agriculture was the most controversial part of the GATT-UR. (See Annex C.) Prior to the Uruguay Round, agriculture was not even part of GATT. It was the CAIRNS[9] group that pushed for its inclusion in the agreement. Around the world, local farmers' and peasants' organizations immediately saw that the liberalization of the agricultural sector threatened food security. They feared that land devoted to staple crops would be planted to cash crops because more liberal trade regimes would likely result in an increasing demand for cash crops in the international market. As more land is devoted to cash crops, many developing countries could become importers of staple food products like rice.

Rafael Mariano of the Kilusang Magbubukid ng Pilipinas (KMP), representing the peasant sector of the anti-GATT coalition PUMALAG, projected that 450,000 sugar workers, 50,000 rice farmers, 62,000 corn farmers, and 40,000 vegetable farmers would be displaced by a more liberal agricultural trading regime.

Another major coalition, the Pabi-GATT asserted in its position paper: "The implementation of the very same provisions that are central to GATT (tariffication, removal of quantitative restrictions on imports, deregulation) will cause much harm to the peasantry and other sectors whose livelihood are derived from local agriculture. Considering that the biggest slice of agricultural resources is devoted to the production of food crops and traditional exports, uncontrolled entry of products that compete with local production will spell doom for these sectors. The total removal of government support for agriculture will cause our fledgling and weak industries to slug it out with huge and powerful transnationals even in the local markets."[10]

According to Sanduguan,[11] "GATT is one bitter pill that Philippine agriculture has to swallow." In its third national congress, Sanduguan called for a dialogue on

GATT with President Ramos. The position paper it submitted to the President outlined the need for increased budgetary allocations for agriculture and also agrarian reform, which accounted for a measly 2.3 percent of the 1994 national budget.

At the end of the day, the campaign waged by GATT's critics raised awareness on the negative impact of trade liberalization on agriculture. That the arguments of these critics had sunk in was obvious in Senator Shahani's explanation of why she voted a "critical yes" for the treaty: "Safety nets to be provided by GATT which include tariffication, countervailing measures and provisions designed to check import surges are not enough to cushion the impact of trade liberalization on agricultural products coming from the Philippines."

Trade-Related Intellectual Property Rights (TRIPS)

While farmers' groups were concerned with the agricultural agreement, scientists and environmentalists were worried about TRIPS. The agreement compels member states to provide protection for plant varieties, either by patents or home-grown regulation. Critics felt that assigning patents to nature's products would encourage transnational corporations to assert and legitimize their rights over the biological and genetic resources of developing countries. These included medicinal plants and traditional seed varieties, which big pharmaceutical and seed companies have used to develop products for the international market.

Dr. Oscar Zamora of the University of the Philippines' Department of Agronomy in Los Baños, Laguna explained that 90 percent of the vegetable varieties recommended by the Seed Board actually came from farmers. "If GATT is implemented, anyone can have these seed varieties patented. And once these are patented, no farmer can make commercial use of them without paying royalty and at higher prices," he said.[12]

Other objections to TRIPS arise from concerns about access to information technology. For example, the protection of the intellectual property rights of software producers means that local users would have to pay the high cost of original software. In addition, the abolition of the Book Reprinting Law, which allows local reprints of foreign textbooks, would result in added costs for the local publishing industry and higher educational cost for high school and college students.

Roberto Verzola of Surian[13] explained that the protection of intellectual property rights is high on the U.S. agenda, and GATT provisions on these rights were brought about because the United States wants to protect its booming information industry.

Formal and Informal Means of Intervention Utilized by Civil Society

Experience has shown that there are two ways for civil society groups to intervene in official decision-making: the first is through "front-door" lobbying and the second is through the use of "back-door" tactics. The first is done through active and visible lobby and advocacy work; the second through more discreet efforts that necessitate taking advantage of personal ties with officials. The latter is used when there is not enough democratic space for debate, or when the lobbyists are powerful or influential enough to be able to "wine and dine" those who can help advance their interests. Civil society actors do not have the resources for

such back-door lobbying. Instead, they try to develop "good PR (public relations) with officials by providing them with technical services (like writing speeches or drafting bills/resolutions) for free.

The formal and informal means of intervention are usually combined; they are not mutually exclusive. In the case of the GATT-UR debates, citizens' groups utilized a combination of strategies, including appearances in public hearings, informal breakfast meetings with legislators, and airing their positions in the media.

Congressional hearings became venues for raising concerns about the lack of government transparency.

The entry point for many people's organizations (POs) and NGOs in the formal debate on GATT was Congress. Government departments held public hearings on the treaty in key regions; these were followed by public hearings called by the Senate. Both the DA and the DTI were also holding briefings with select and more supportive groups like the Philippine Chamber of Commerce and Industry.

In the congressional hearings, citizens' groups criticized the lack of transparency of government agencies involved in the GATT negotiations. These groups said that consultations with affected social sectors took place only when the GATT-UR agreement was already in final form. There was a consensus among civil society actors — POs, NGOs, sugar industry leaders, the Church, legislators — that consultations were sorely lacking.

In contrast, in Europe, civil society actors, particularly non-government organizations, had been active in conducting studies, forums and conferences on the potential impact of GATT.[14] In some ASEAN countries like Malaysia, studies on GATT's likely impact on agricultural products like palm oil were conducted even prior to the conclusion of the Uruguay Round.

The GATT-Uruguay Round began in 1986, and several trade negotiations took place between 1986 and 1993. (See Annex D.) In the Philippines, however, GATT captured the national attention only in mid-1994, after the Philippines had already signed the trade agreement. As Tañada said in a privilege speech:

> The Uruguay Round started in 1986; however, it is only now that the Department of Trade and Industry and the Department of Agriculture are providing us with details of the new GATT and its possible effects on our industries and agriculture. There was not even a mention of the sectors that would be adversely affected.[15]

Even the House of Representatives was not fully aware of what GATT is all about. Public hearings[16] conducted by the House of Representatives only started in March 1994. These public hearings were held only because some members of the House like Candazo and Montemayor were approached by anti-GATT groups to sponsor resolutions urging Congress to undertake public hearings on the impact of AFTA and GATT on industry and agriculture.[17]

Interaction with the executive was limited to congressional hearings, and informal means were utilized to intervene.

Among the three branches of government, the executive was the most involved in the Uruguay Round negotiations. The agencies that directly took part in the talks were the Department of Trade and Industry, the Department of Agriculture and the Department of Foreign Affairs. None of them conducted consultations with affected groups until after the treaty-signing in Morocco.

Because of this, many civil society actors, especially those in grassroots organizations, have only a limited knowledge of GATT, and this impaired their meaningful participation in the consultations that were later conducted.[18] Civil society's intervention in the executive branch was through informal means. Various groups sponsored forums to which representatives from government departments were invited.

Not surprisingly, the GATT debates were most critical of the executive branch. Eduardo Landayan of the Aniban ng Magbubukid sa Agrikultura (AMA) said in a public hearing in Nueva Ecija:

> *Madalas kasi na ang nagiging karanasan nating mga Pilipino lalo na sa panig ng mga maliliit na magsasakang Pilipino, eh, pagka-approve na yong programa, nandiyan na pala ano. Ito, eh, madalas na nagiging patakaran ng pamahalaan mula kay Marcos hanggang kay Cory at maaaring hanggang ngayon.... Dapat talagang magkaroon ng transparency pagdating sa ganitong policy-making lalo [na at] may kinalaman sa kabuhayan at aapektuhan ang kalagayan ng ating maliliit na magsasaka.*[19]
>
> (Our experience as Filipinos, particularly as Filipino farmers, is that we are informed by government only after a program has been approved. This has been the government's way of doing things, from the time of Marcos to that of Aquino. There is a need for transparency in policy-making, especially in areas where the livelihood and well being of farmers is at stake.)

Teofilo Juatco, chairperson of the Integrated Multi-Purpose Cooperative, Inc., echoed the same sentiments, saying that farmers learned about GATT from NGOs, rather than from government. Industry leaders have also criticized government's failure to consult them. Emil Piansay, former president of the Davao City Chamber of Commerce and Industry said the government "should have consulted the people before they signed the agreement so that we can put forward some information and inputs from the countryside."[20] Other industry leaders think that technical errors would have been avoided and more favorable terms might have been achieved had the negotiators consulted with affected sectors before submitting the country's position to the Uruguay Round.

Civil society and the Supreme Court

The battle did not stop with the legislative debates; it was pursued in the highest court of the land. In a petition asking for a temporary restraining order on the implementation of GATT, Senator Tañada and other NGO petitioners questioned the constitutionality of the treaty before the Supreme Court. It took more than a year before the oral arguments were presented. To this day, the case is pending.

Overall, civil society actors have utilized all possible means of intervention, both formal and informal. Since then, they have come full circle. They are now back to participating in public hearings on bills intended to align existing laws with the GATT-UR.

Illustrating the Dynamics: The Sugar Industry Lobby

The various sections of the sugar industry — the sugar planters, sugar millers, traders, farm and industrial workers, and the end-users (industries and households) — have a range of positions on the GATT-UR agreement. The big sugar producers and millers were in favor of GATT and supported the government position. They believe the country would benefit from the trade accord, but only under certain conditions. They lobbied for safety nets and for the adoption of several measures to develop the industry (e.g., strengthening of anti-dumping provisions and countervailing duties; review of the land reform law, which they claim prevent investment and improvement of production/productivity; removal of tariffs on farm inputs; exclusion of sugar from payment of the value-added tax).

The producers, millers, and food processors were generally also for GATT, but they had different positions on the tariff rates to be imposed on imported sugar. In the major sugar-producing areas, local people's organizations and non-government organizations joined the national coalitions in the lobby to defer the ratification of the agreement.

Most of the planters and millers asserted that the Philippine sugar industry cannot compete in the world market where highly subsidized sugar is dumped at prices below production costs. They said that that even in the domestic market, it would be difficult for Philippine sugar producers to compete without sufficient tariff protection. Sugar industry lobbyists have been active for some time and have been successful in winning government over to their side. For example, they managed to convince the government of President Aquino to defer the liberalization of sugar imports until 1992 and to increase the tariff on raw sugar. (See Annex E.)

The Major Stakeholders in the Sugar Industry

The Sugarcane Planters[21]

Data from the Sugar Regulatory Administration (SRA) indicate that the ownership and control of land planted to sugarcane remain in the hands of few big planters. In 1993-94, there were 37,127 sugarcane planters cultivating or managing 347,500 hectares. The majority of these planters (70.6 percent) cultivate less than five hectares. Together, they farm an aggregate area of 62,273 hectares (17.9 percent of total hectarage). Only 3.35 percent of the planters (1,242) cultivate more than 50 hectares of land, but they control a significant portion (40.53 percent) of the total area planted to sugarcane.

Historically, the big sugarcane planters (popularly known as *hacenderos)* were among the richest and most powerful political blocs in the Philippines. Their economic and political clout, however, decreased during the Marcos regime when

only a few favored planters (e.g., Roberto Benedicto, Armin Gustilo) benefited from the industry. Some of the planters who were marginalized during the martial-law years were able to regain their power under the Aquino administration.

Currently, there are two leading planters associations: the National Federation of Sugarcane Planters (NFSP) and the Confederation of Sugar Producers Associations (CONFED).

The NFSP has 26 planters associations, most of them from Panay and Negros Occidental. Its president is Rep. Romeo G. Guanzon of Bacolod City. On the other hand, CONFED, according to Michael Billig, was "a spin-off from the NFSP during the later Marcos years as a rebellion against (the late) Armin Gustilo, the powerful president of NFSP, a Marcos crony who dominated the sugar industry in northern Negros." He claims that majority of sugarcane planters associations are members of CONFED.[22] Jose Mari Montinola is the national president of CONFED.

The Sugar Millers/Refineries/Distilleries

As of crop year 1994-95, there were 36 operational sugar mills, 15 refineries and 12 distilleries. In 1994, some of these mills belonged to the top 1,000 corporations. These are Victorias Milling, Central Azucarera Don Pedro, San Carlos Milling, Central Azucarera de Tarlac, BUSCO Sugar Milling, Hawaiian-Philippine Co., Universal Robina Sugar Milling, Lopez Sugar Corp., and First Farmers Holding Corporation.

The owners of these mills are among the country's most prominent business families. Central Azucarera de Tarlac is owned by the Cojuangcos, the family of former President Corazon Aquino. Universal Robina Sugar Milling and the Cagayan Robina Sugar Milling are owned by the Gokongweis; Victorias Milling by the Osorios (American); and San Carlos Milling by Lucky Two Corp., a company engaged in sugar trading. There are also cases of interlocking directorates and/or ownership. Claudio de Luzuriaga is the president of Victorias Milling and a director of the North Negros Marketing Company. Julio 0. Sy Sr. is president of BUSCO Sugar Milling and executive vice-president of Makati Agro Trading. Roman T. Yap is chairman of Herminio Teves & Co. and vice-chairman of the BUSCO Sugar Milling.[23]

One of the notable changes in the sugar industry is the trend toward vertical integration.[24] Many of these sugar mills are also into sugar refinery, distillery or sugar trading. In some instances, some of these companies are also into food manufacturing that requires sugar as an input. For instance, Victorias Milling, the biggest and most profitable sugar mill in the country, is also into sugar refining and trading. The same is true with Robina Sugar Corporation.

Sugar millers are a highly organized, strong lobby group.[25] There are two millers associations: The Philippine Sugar Millers Association (PSMA) and the Association of Integrated Millers (AIM). PSMA claims to be the leading millers' association in the country. PSMA has a total membership of 21 (out of 39) sugar mills as of December 1995. The sugar mills in the top 1,000 corporations are members of PSMA. PSMA members are required to pay fees amounting to PO.16/Lkg. for operational and lobby expenses.

Farmworkers and Industrial Laborers

There are some 556,000 farmworkers and 25,000 industrial workers in the sugar industry, according to the SRA. Three unions are organizing among these workers. These are the National Congress of Unions in the Sugar Industry (NACUSIP), the National Federation of Sugar Workers (NFSW) and the Democratic Association of Labor Organizations (DALO). Labor unions under NACUSIP are allegedly controlled by management. On the other hand, NFSW is labeled as a radical organization and is a member of the militant Kilusang Mayo Uno (KMU). DALO, the most recent grouping in the sugar industry, claims that its members are independent local unions. It is affiliated with the Bukluran ng Manggagawang Pilipino (BMP) and Sanlakas.

The Sugar Traders

Billig noted that "there are nearly 500 licensed sugar traders in the Philippines, most of whom do not have the wherewithal to transport sugar or sell it directly to end-users. These are the traders that mainly buy and sell quedans."[26] The Philippine Agribusiness and Food Market Directory 1995, on the other hand, listed some 324 sugar traders.

In 1995, *Business World's* Top 1000 Corporations listed the biggest traders as North Negros Marketing Co. and Makati Agro Trading. Other companies that engage in sugar trading include A. Chan Sugar Corporation, Cargill Philippines, Lucky Two Corporation, Luisita Marketing Corporation, and Hacienda Luisita, Inc. But there are reports that sugar trading is allegedly controlled by the "Big Five"[27] that sets the price of the commodity. The "Big Five" traders deny this, saying that it is hard to control trading given the large number of traders in the industry.

The Sugar End-Users: Industry and Households

About 1.76 million metric tons of sugar were consumed in 1994-95. Of this, 60 percent was for home consumption and the remaining was for industrial use. Domestic sugar consumers, while they used up the bulk of locally-produced sugar, are not organized. Although they complain about rising sugar prices, they have not been a force to reckon with. The major industrial users of sugar are the manufacturers of beverages, ice cream makers, food processors and exporters. From this sector, two organizations have been vocal. These are the Philippine Food Processors and Exporters Organization (PHILFOODEX) and the Beverage Industries Association of the Philippines (BIAP).[28] PHILFOODEX claims to have a membership of about 100 small and medium-scale food processors and exporters. These firms consume 10,000 to 20,000 metric tons of sugar annually. On the other hand, BIAP's membership includes big multinational firms like Coca-Cola Bottlers, Pepsi-Cola, Dole Phils., Del Monte Phils. and Filipino companies like RFM (local bottler of Cosmos products), subsidiaries of San Miguel Corp., and Trans-Union Corp. (the local franchise owner of RC Cola).

The Major Stakeholders' Position on GATT

Yes to GATT but...

Six major groups, namely the Philippine Sugar Millers Association (PSMA), the Association of Integrated Millers (AIM), the National Federation of Sugarcane Planters (NFSP), the Confederation of Sugar Producers Association (CONFED), the PHILSUTECH, and the National Congress of Unions in the Sugar Industry (NACUSIP), supported the Philippine government position: ratify the GATT agreement. They believed that the country would benefit from the trade accord. However, they demanded that the government implement several measures and put in place safety nets to prepare and strengthen the industry. These included:

- the strengthening of anti-dumping and countervailing duties laws to make them more effective;
- a review of the Comprehensive Agrarian Reform Law that they claim has prevented them from investing in improving their productivity;
- the immediate implementation of the Sugar Restitution Law (Republic Act No. 7202);
- the removal of tariffs on fertilizers, insecticides and other farm inputs;
- the exclusion of sugar from the value added tax (VAT) law;
- an increase in import duties to approximate the protection and subsidies given to other sugar-producing countries;
- an increase of the SRA's budget for research and development;
- yearly budget allocations for farm-to-market roads;
- the extension of the tariff-free importation of equipment and machinery; and
- provision of long-term credit to finance the modernization of sugar mills.

The Philippine Food Processors and Exporters Organization (PHHFOODEX) also supported the ratification of GATT. In a position paper, Edward David, president of PHILFOODEX, said that "with the advent of the GATT, it becomes imperative for Philippine industries, particularly the agricultural sector and the agri-based processed food industry, to become competitive both in the domestic and international market."[29] To achieve global competitiveness, PHIILFOODEX urged the government to provide more efficient infrastructure, better access to technological and market information, improved post-harvest and processing facilities, industry-focused research and development, competitively priced sugar and packaging materials and a more supportive policy environment for local industries.[30]

While sugar producers, millers and food processors and exporters had similar positions on GATT, they had differing positions on the tariff rates to be imposed on imported sugar.

Under the present Tariff and Customs Code (E.O. 470), a 50 percent tariff is levied on imported sugar. In its GATT commitment, the Philippine government agreed to a bound rate of 100 percent, to be reduced to 50 per cent in 2004. In addition, the government also had to agree to impose a 50 percent tariff for in-quota under the minimum access volume. This commitment was highly criticized by planters and millers who claimed that the government had "negotiated poorly" in comparison to other ASEAN countries. Thailand offered a maximum bound rate of 104 per cent in 1995 to be reduced to 94 per cent by 2004. Indonesia, on the other hand, committed a bound rate of 105 per cent, to be reduced by 95 percent

over the same period. In essence, the sugar planter and millers claimed that the 50 percent tariff was not enough to protect the industry and were pushing for a 100 percent tariff.

More recently, sugar producers seemed to have succeeded in their lobby efforts when the SRA board agreed that all sugar imports in excess of local demand will be classified as reserve or "C" sugar. In a similar move, the House approved a 100 percent tariff on imported sugar to be reduced by 65 percent by 2004, based on in-quota of 50 percent. The out-quota would be lowered to 85 percent by 1997 and 80 percent by 1999 in compliance with the Philippine commitment to the GATT-WTO.

PHILFOODEX criticized these moves, claiming that the government was "paying more attention to the country's sugar producers rather than the users." Thus, it is pushing the government to allocate to its members 50 percent of the country's minimum access volume, to allow them to import sugar at 10 percent tariff instead of 100 percent, and to align the Philippine tariff schedule for sugar imports with those in other ASEAN countries.[31]

The Beverage Industry Association of the Philippines also opposed the 100 percent import tariff because this would mean higher production costs. Instead, BIAP urged the government to adopt a two-tiered tariff structure: a low of 32.5 per cent for in-quota sugar and 90 per cent for out-quota sugar.[32]

Defer the Ratification and Implement Structural Reforms

People's organizations and non-government organizations in sugar-producing areas did not come out with specific positions on GATT provisions relating to sugar. Instead, they adopted the position put forward by Pabi-GATT. Signatories of the Pabi-GATT position paper from Negros included the Rural Development of Negros, the Democratic Alliance of Labor Organizations, and the Demokratikong Hublagan sa Mangunguma sa Probinsya sa Negros Occidental.

The position paper urged the Senate to defer the treaty's ratification because GATT would "compromise our economic security" and affect the livelihood of millions of farmers and fisherfolk. The coalition called on the national leadership to implement reforms to mitigate the possible adverse impact of GATT and make the Philippines "an effective player in the international economy." These reforms include massive information campaigns and consultations on GATT, the retention of the Magna Carta for Small Farmers, the speedy implementation of agrarian reform, and the dismantling of agricultural monopolies.[33]

The Catholic Bishops Conference of the Philippines (CBCP) also asked the Senate for a two-year deferment of the GATT ratification. In a statement, the CBCP said that early ratification might "lead to much public discontent as in the case of the Expanded VAT." The bishops also stressed the need for more public hearings and consultations on GATT.

In addition, the diocese of Bacolod said that the government should address three main issues before ratification: the country's readiness or preparedness to compete in a more liberalized international trade environment; the need for more information about GATT and its implications on people's lives; and the imperative for the government to adopt a "pro-people, pro-life and pro-Filipino" position with regard to GATT.

In a public hearing conducted by the Senate in Bacolod City, Fr. Tomas Rito of the Bacolod diocese said that "backward technology, inadequate farm-to-market roads, government neglect of agriculture and the lack of true agrarian reform" are some of the factors that limit Philippine competitiveness. He admonished the government not to be hasty in ratifying the trade accord but to give the people ample time for information and consultation.[34]

No to GATT

PUMALAG, a coalition of about 50 people's and non-government organizations sought the Senate's total rejection of GATT. The anti-GATT coalition pointed out that GATT would exacerbate poverty and underdevelopment in Third World countries like the Philippines. The group likened the GATT to a loaded gun pointed at people's heads because of its deleterious impact on the livelihood of peasants and other marginalized groups. They feared that with the loosening of trade barriers, the country would be flooded with cheap agricultural products with which Philippine agriculture cannot compete because of high production costs and the absence of government subsidies for agriculture.[35]

Roy Mahinay, chairman of the National Federation of Sugar Workers, a member of PUMALAG, claimed that thousands of farm workers will lose their jobs because the Philippines will lose the US sugar quota if it ratifies GATT. He estimated that about 450,000 sugar workers in Negros will lose their jobs when local producers go bankrupt because locally produced sugar cannot compete with cheaper imported sugar.[36]

Lobbying Strategies: The Case of Sugar

The main message that planters and millers wanted to communicate to the legislators, media and the public is that Philippine sugar cannot compete in the world market.[37] They also asserted[38] that they could not compete even in the domestic market without sufficient tariff protection.

The demand for government protection through high sugar tariffs did not start with GATT. In 1992, sugar producers strongly opposed a move by the Monetary Board (the highest policy making body of the Central Bank) to include sugar in a list of commodities targeted for import liberalization under International Monetary Fund guidelines. In a concerted effort, various industry leaders lobbied for temporary increases in tariffs to neutralize import liberalization. To justify their demand, they said that sugar workers would be adversely affected, other countries were heavily subsidizing their sugar industries, and that the policy environment has not been favorable to the local sugar industry.

To prepare the industry for import liberalization, they requested the President for support measures such as the elimination of tariffs on fertilizers and tax incentives for mill rehabilitation and refinery construction.[39] The lobby of the sugar sector succeeded when the President deferred import liberalization until October 1992 and increased the tariff on raw sugar from 50 to 75 percent for a period of three years.

Among the various sectors within the sugar industry, the millers (represented by the PSNLA) and the planters (NFSP and CONFED) have been consistent in putting forward their positions and demands with regard to sugar importation, GATT

and sugar tariffs. Their actions indicate that they have a comprehensive strategy to ensure that their demands and positions are adopted or acted upon. First, some sectors in the industry (millers, planters, workers) set aside[40] their disagreements and came out with a unified position on GATT.

According to Vicente Castro, PSMA deputy director, they sent a position paper to legislators, various government departments and agencies, and the media. Aside from this, he said that they also joined several federations (e.g., Philippine Chamber of Commerce and Industry, Makati Business Club, Philippine Business for Environment) which had similar positions on GATT. Castro also said that they attended all consultations, public hearings, forums and conferences on GATT and tariffs where they were able to amplify their position. As he aptly put, there is a need to make a lot of noise in order to make the government heed your demands.

In lobbying, sugar millers and planters have an advantage over farmers' and workers' groups. At the House of Representatives, several congressmen from sugar-producing provinces belong to the "sugar bloc"[41] that actively articulates or supports the positions of owners and millers.[42] These groups are also represented in the executive branch. For instance, Jose Maria Zabaleta, executive director of the Philippine Millers Association, is a member of the Agricultural Sector Advisory Committee (ASAC)[43] and heads the sub-committee on sugar.

Conclusion

Impact of the Participation of Civil Society Actors in Policy-Making

NGOs and POs making up a critical mass of Philippine civil society did not come up with a unified position on the GATT-UR agreement. At the height of the debates, the major NGOs and POs formed coalitions that would participate in public discussions and mass actions. Although the GATT-UR agreement is a comprehensive package, the positions of civil society groups concentrated on specific concerns that these groups had already been working on (e.g., the agreement on agriculture, intellectual property rights issue, environmental issues). Thus, their participation in the GATT debates were an extension of their advocacy and grassroots work.

NGO and PO positions were fundamentally different from those of the government. While officials claimed that GATT-UR would result in a "win-win situation," the large segment of civil society, on the other hand, rejected this claim and asserted that there would be more losers than winners under a liberalized trade regime. A dim scenario was painted for agriculture, and the issue of food security became the focal point of the debate. By asserting that trade liberalization would render the country's food production vulnerable to the dumping of farm products by more efficient economies, Pabi-GATT, PUMALAG, and INFORM managed to make the government listen.

But complicated as it is, GATT can be attacked from various perspectives, depending on the interests of the groups viewing it. Every sector has different stakeholders with different interests. The sugar industry lobby is a good example.

In the end, the opposition to GATT within government and civil society did not come up with a compromise position; there were simply no points of convergence. While the government won in the legislative battle, civil society chalked up some victories because citizens' groups were able to bring the matter to public debate even if they were also debating among themselves. Moreover, the GATT debates sharpened the analytical and research skills of these groups.

In recent years, civil society has made significant impact on policy. This was evident in the congressional debates on agrarian reform. In many other instances, civil society groups have assumed a role in policy-making by putting forward a critique, advocating reforms or changes, or monitoring the implementation of policies.

In the GATT-UR debates, civil society had an impact, not so much in forcing the rejection or amendment of the agreement, but in opening up the issue to wide public debate. Citizens' groups forced the government to defend its position. They also taught officials that in drafting future policies on GATT-related issues, civil society participation was imperative.

Problems Encountered, Strengths and Weaknesses

Limited resources and capabilities. Grassroots groups, in particular, are handicapped by limited resources and capabilities. First of all, policy issues like those involving GATT are not immediately brought to the attention of citizens' groups, especially grassroots organizations. In addition, the resources of NGOs are no match to those of government. The government was able to set up an effective propaganda machinery, with nationwide campaigns and advertisements. Some government spokespersons were also well-versed and articulate on the issues.

The business sector also had the resources to make an impact on the GATT debates. They were also more proactive and were able, for example, to hire PR groups or to attend consultations on GATT where they could articulate their positions. They also had support from and influence in government and the media.

Many of the grassroots groups were not as prepared as the government proponents and the business sector in presenting their arguments. In a public hearing in Bacolod City, for instance, Senator Arroyo asked PUMALAG a question on the impact of imported grain on the local farming sector. They could not answer, prompting the senator to say that in future public hearings, these groups should provide concrete basis for their fears.

Marginalization of grassroots interest in the media. Only a handful of journalists were receptive to the views of citizens' organizations, particularly of grassroots groups. The mass media are vital to the success of a campaign or lobbying effort. In the GATT debates, some groups discovered that a little investment in educating media people about the issues and liaisoning with journalists yielded positive results.

Political differences and organizational bickering divided civil society groups. In focus group interviews, PO and NGO leaders in Negros Occidental admitted that they had limitations in mounting strong opposition to GATT. These included limited access to information (they got most of their information from newspapers) and the channels of information themselves (mainly the mass media). They also said that the issue was too complex *("mahirap intindihin, maraming terminolo-*

gies, ang GATT parang invisible sa masa") and that they had few resources and little time to launch an effective campaign.

Above all, they said, organized groups remained too small and were disunited (*"watak-watak ang kilusan at may bangayan pa sa gilid"*).[44] This disunity became most obvious when three different coalitions held a mass action in front of the Senate all at the same time, and speakers of each group were attacking the others. The issues thus became muddled up. The media ended up highlighting the verbal exchanges among the groups instead of the issues that they had raised.

The Senate vote did not mean a defeat for civil society. The congressional debates were merely a major battle in a long war. Although GATT was ratified, there were other modes of action that remained available. One was the filing of a case in the Supreme Court. Another was the creation of a citizens' monitoring body where the major coalitions were represented. Lastly, citizens' groups continue to participate in public hearings on GATT-related issues.

ENDNOTES

1 Trade ministers from some 120 countries signed the 424-page document of the Final Act Embodying the Results of the Uruguay Round of Multilateral Negotiations after seven years of negotiations that began in Uruguay in 1987.

2 Department of Trade and Industry briefing paper prepared by the Bureau of International Trade Relations (BITR), 1994.

3 Department of Agriculture primer, *Questions and Answers about GATT and Its Implications on the Philippine Agriculture*, 1994.

4 The TRIPS agreement covers rights of owners to protect copyright (e.g., for computer programs, sound recordings, films), trademarks, geographical indicators (i.e., the right to label a product as originating from a country or region), industrial design patents for invented products or processes, and layout designs or integrated circuits.

5 The Most Favored Nation principle means that countries signing a plurilateral agreement are bound to offer the benefits of the agreement to other countries that sign the agreement. Any signatory to an agreement must extend the benefits to all members of GATT whether or not that country has signed the individual agreement in question.

6 DTI Primer: *The GATT, The Uruguay Round and the Philippines – Growth Opportunities into the 21st Century.* June 23, 1994.

7 Ibid.

8 Report on the Committee of the Whole on GATT, p. 133.

9 The CAIRNS Group is composed of 14 agricultural-exporting countries, namely, Argentina, Australia, Brazil, Canada, Chile, Colombia, Fiji, Hungary, Indonesia, Malaysia, New Zealand, the Philippines, Thailand and Uruguay. It accounts for around a quarter of world agricultural trade.

10 Pabi-GATT: NGO-PO Statement on the Agreement on Tariffs & Trade, April 16, 1994.

11 Sanduguan is an umbrella organization of 16 national farmers' organizations and is also referred to as the National Supreme Council.

12 Briefing paper prepared for the Committee on the Whole hearings, 1994.

13 Roberto Verzola was one of the discussants in a consultation on "IPRS, with Emphasis on Intellectual Property Rights in Agriculture and Food," sponsored by the UPLB College of Agriculture and MODE Inc. held at the UP, Los Baños in August, 1994. An EPR Source Book was generated from this consultation. See *IPR Source Book, Philippines*, UPLB and MODE Inc., 1994.

14 In 1990, Shadow-GATT conferences were conducted in Brussels, Belgium; Germany and Canada.

15 Wigberto Tañada, "Are we ready for GATT?" Privilege Speech delivered in the Philippine Senate on April 26, 1994.

16 Four public hearings were conducted by Congress: Nueva Ecija on March 11, 1994; Cagayan de Oro on May 17; Davao City on May 19 and Cebu City on May 21.

17 See House resolution Nos. 613 and 937 MODE drafted the resolutions and submitted them to the concerned congressman for their sponsorship.

18 The Department of Agriculture conducted 17 regional consultations on GATT from May 30 to August 1, 1994 and two tariff consultations. See Annex 3 of the areas where they have conducted the consultations.

19 Committee on Foreign Affairs, House of Representatives, *Transcript of proceedings of public hearing on AFTA and GATT* on March 11, 1994 in Muñoz, Nueva Ecija (WCBSalvino/VIII :4-5).

20 Committees on Foreign Affairs and Trade & Industry, House of Representatives, *Transcript of Proceedings of Public Hearing on AFTA and GATT* on May 19, 1994, DPWH, Davao City (EHMartin, XVI: 6).

21 According to the definition in the Sugar Act of 1952, a planter is a person, firm or corporation that operates a plantation or farm for cultivating sugarcane.

22 Michael S. Billig, *Syrup in the Wheels of Progress* (Lancaster: Franklin and Marshall College, 1994), p. 17.

23 SEC, General Information Sheets of companies engaged in sugar milling, refining and trading.

24 Vertical integration describes a phenomenon where individual companies attempt to control as many segment of the line as possible. A company can integrate forward - towards the consumer or backward — towards inputs or even both ways.

25 This is also the observation of two interviewees: Troels Carstensen, general manager of GEA (SEA) Ltd., which manufactures sugar milling equipment and machines, and Rolando Dy, director, Institute for Agribusiness Development and Policy, Center for Research and Communication, July 1996.

26 Billig, p. 19.

27 The "Big Five" is allegedly composed of the Go family of Lucky Two, Leong Cho of La Perla, Rolly Sicat of Vision Marketing, James Chu of Victorias Marketing and Julio Sy of Makati Agro Marketing (from Aurora Regalado, "Barriers in the Development of the Sugar Industry)," *Rural Development Studies*, Volume 8, Number 4 (Quezon City: PPI, August 1992), p. 30.

28 BIAP members include some of the biggest companies in the Philippines, namely, Coca-Cola Bottlers Philippines, Pepsi-Cola Products, RFM Corp., local bottler of Cosmos products, Trans-Union Corp., local franchise owner of RC Cola, Del Monte Philippines, Dole Philippines and subsidiaries of San Miguel Corp engaged in beverage manufacturing.

29 Letter to Hon. Rizalino Navarro, dated July 18, 1994 regarding PHILFOODEX's position on GATT.

30 "Food exporters, sugar producers ask for agriculture policy reforms," *Business World*, August 4, 1994, p.21.

31 "Sugar users propose support measures," *Business World*, March 15, 1996.

32 "Big sugar users seek 2-tier import tariff scheme," *Philippine Daily Inquirer*, April 9, 1996.

33 "PABIGATT!," NGO-PO Statement on the General Agreement on Tariffs and Trade, as published in the *Philippine Daily Inquirer*, April 16, 1994.

34 Senate Committee of the Whole on GATT, Transcript of proceedings of a public hearing held in Bacolod City on October 2, 1994 (MHBalagne, VI-2: 3 -6).

35 Kilusang Magbubukid ng Pilipinas (in cooperation with PUMALAG), *GATTilyo ng Kamatayan: Isang Praymer Hinggil sa GATT*, July 23, 1994, pp. 5-6.

36 "NGOs ask Senate to reject GATT," *Manila Times*, August 30, 1994.

37 "Impact of GATT on the Philippine Sugar Industry," a position paper of the Philippine Sugar Millers Association (PSMIA), Confederation of Sugarcane Producers Association (CON-FED) and National Federation arcane Planters (NFSP), June 24, 1994, p. 1.

38 Ibid., pp. 2-3.

39 "Rationalization of Tariffs on Sugar, Molasses and Sugar Substitutes," CON-FED Position Paper, 1992.

40 "Impact of GATT on the Philippine Sugar Industry," p.1.

41 Some of the members of the sugar bloc are Reps. Jose Zubiri, Jr. (Bukidnon); Jose Carlos Lacson (Negros Occidental); Miguel Romero (Negros Oriental); Mar Roxas (Capiz); Romeo Guanzon (Bacolod City), and Jose Cojuangco, Jr.

42 Rep. Romeo Guanzon and Sen. Gloria Macapagal-Arroyo have sponsored bills that would rationalize sugar importation. Rep. Jose Maria R. Zubiri, Jr. (third district, Bukidnon) also made a privilege speech in defense of the sugar industry (The Sugar Industry: Pampered or Pestered? December 11, 1995).

43 ASAC was created to oversee and manage the Competitiveness Enhancement Fund. This fund, established under Memorandum Orders 231 and 245, is part of the so-called safety nets put up to mitigate the adverse impact of GATT on the agricultural sector.

44 Focus group interview, Bacolod City, July 25, 1996. Organizations represented: First Ecumenical Fellowship, Democratic Association of Labor Organizations, Sanlakas-Negros, Women's Initiative for Social Empowerment.

Annex A Briefing Paper Outlining the Provisions of the 1987 Constitution Allegedly Violated by GATT-UR *(Prepared by: Atty. Abet Domondon, Legal Counsel for Sen. Tañada)*

A. Protectionist Provisions

- The State shall develop a self-reliant and independent national economy effectively controlled by Filipinos. (Sec. 19, Article II).
- ...[T]he State shall protect Filipino enterprises against unfair foreign competition and trade practices. (2nd sentence, Sec. 10, Art. XII).
- The Congress shall enact measures that will encourage the formation and operation of enterprises whose capital is wholly owned by Filipinos. In the grant of rights and privileges, and concessions covering the national economy and patrimony, the State shall give preference to qualified Filipinos. (2nd and 3rd sentences, Sec. 10, Art. XII)
- The State shall promote the preferential use of Filipino labor, domestic materials and locally produced goods, and adopt measures that help make them competitive. (Sec. 12, Art. XII).
- The State shall... provide support to agriculture through appropriate technology and research, adequate financial, production, marketing, and other support services. (Sec. 5, Article XIII).
- The State recognizes the indispensable role of the private sector, encourages private enterprise and provides incentives to needed investments. (Sec. 20, Art. II).

B. Provisions in Exercise of Sovereign Powers

- The legislative power shall be vested in the Congress of the Philippines...except to the extent reserved to the people by the provision on initiative and referendum. (Sec. 1, Art. VI).
- All...revenue or tariff bills...shall originate exclusively in the House of Representatives, but the Senate may propose or concur with amendments. (Sec. 24, Art. VI)
- The Congress may, by law, authorize the President to fix within specified limits and subject to such limitations and restrictions as it may impose, tariff rates and other duties or imports within the framework of the national development program of the Government. (Subsec. 2, Sec. 28, Art. VI)
- The... independent central monetary authority... shall provide policy direction in the areas of money, banking and credit. It shall have supervision over the operations of banks and exercise such regulatory power as may be provided by law over the operations of finance companies and other institutions performing similar functions. (1st par., Sec. 20, Art. XII)

Annex B Major Anti-GATT Formations

Pambansang Ugnayan ng Mamamayan Laban sa GATT (PUMALAG) Headed by the KMP

Kilusang Magbubukid ng Pilipinas (KMP) ▪ Pambansang Lakas ng Kilusang Mamamalakaya ng Pilipinas (PAMALAKAYA) ▪ Pambansang Pederasyon ng Kababaihang Magbubukid (AMIHAN) ▪ National Federation of Sugar Workers (NFSW) ▪ Philippine Partners Forum for Sustainable Agriculture ▪ United Church of Christ of the Philippines (UCCP) ▪ Rural Missionaries of the Philippines (RMP) ▪ National Council of Churches of the Philippines ▪ IAD ▪ National Union of Students in the Philippines (NUSP) ▪ Health Alliance for Democracy (HEAD) ▪ NFA Employees Association ▪ Sentro para sa Tunay na Repormang Agraryo (SENTRA) ▪ Sibol sa Agham at Teknolohiya (SIBAT) ▪ Integrated Rural Development Foundation (IRDF) ▪ Food for All Coalition (FFAC) ▪ SEEDS Forum ▪ Pesticide Action Group (PAG) ▪ Professors and scientists from UP Los Baños

"GATT: Tratado ng Peligro sa Pilipino," a six-page publication giving background information on the treaty and its effects on Philippine agriculture and possible courses of action.

GATTilyo ng Kamatayan: Isang Praymer Hinggil sa GATT, July 23, 1994, put out by KMP in coordination with PUMALAG

Pabi-GATT

Bukluran ng Mamamayang Magsasaka (BUKLOD) ▪ Demokratikong Kilusang Magbubukid ng Pilipinas (DKMP) ▪ Kalipunan ng mga Maliliit na Magniniyog sa Pilipinas (KAMMPIL) ▪ Citizens' Alliance for Consumers Protection (CACP) ▪ Philippine Peasant Institute (PPI) ▪ NGO Coalition for Cooperative Development (NGO-CCD) ▪ Philippine Ecumenical Action for Community Empowerment Foundation, Inc. (PEACE) ▪ Tambuyog Development Center ▪ Rural Enlightenment and Accretion in Philippine Society (REAPS) ▪ Center for Agrarian Reform Transformation, Inc. (CARET) ▪ Convergence for Community-Centered Area Development (CONVERGENCE) ▪ Philippine Rural Reconstruction Movement

"Ang GATT at ang Implikasyon nito sa Magbubukid at sa Kanayunan," primer put out by PPI

SANLAKAS Headed by Renato Constantino Jr.

KPML ▪ Samahan ng mga Tsuper at Operator sa Pilipinas (STOP) ▪ KAMALAYAN ▪ PMP ▪ Katipunan ng mga Kababaihan ▪ 349 ▪ National Federation of Student Councils (NFSC) ▪ KAIROS

Kilos-reforma Agad sa GATT (KA-GATT)

Federation of Philippine Industries (FPI): Raul T. Concepcion ▪ National Farmers Supreme Council-Sanduguan: Ben Cruz ▪ Cooperative Banks Federation of the Philippine (Bangkoop) ▪ Confederation of Sugar Producers ▪ Coconut Oil Refiners Association ▪ Philippine Association of Supermarkets ▪ Textile Mills Association of the Philippines

Philippine Council for Sustainable Development (PCSD) NGO-PO Counterpart

Center for Alternative Development Initiatives (CADI): Nicanor Perlas ▪ Gaston Z. Ortigas Peace Institute ▪ Women's Action Network for Development (WAND) ▪ Urban Poor Coordinating Network ▪ Pederasyon ng mga Maliliit na Mangingisda sa San Miguel Bay/Bigkis Lakas ▪ Philippine Federation for Environmental Concerns ▪ EarthSavers Movement ▪ Philippine Rural Reconstruction Movement ▪ Alternate Forum for Research In Mindanao, Inc. (AFRIM) ▪ EarthStation ▪ Eastern Visayas Council for Sustainable Development ▪ Mindanao Environment Forum ▪ Kamayo Development Foundation ▪ MUAD-Negros ▪ Lunhaw-Mindanao ▪ Evelio Javier Foundation ▪ Philippine Business for the Environment ▪ Lingkod Tao-Kalikasan ▪ Green Coalition

Farmers Groups Coalition

Federation of Free Farmers (FFF) ▪ Kilusang Magbubukid ng Pilipinas (KMP) ▪ Katipunan ng mga Samahan ng Mamamayan - Federation of People's Organizations (KASAMA-FPO) ▪ Pambansang Lakas ng Kilusang Mamamalakaya ng Pilipinas (PAMALAKAYA-PILIPINAS) ▪ Pambansang Pederasyon ng mga Kababaihang Magbubukid (AMIHAN) ▪ Kapisanan ng mga Magsasaka, Mangingisda, at Manggagawa ng Pilipinas, Inc. (KaMMMPI) ▪ Federation of Agrarian and Industrial Toiling Hands (FAITH) ▪ HUKBALAHAP Veterans, Inc. (HUKVETS) ▪ SANDUGUAN ▪ National Federation of Sugarworkers (NFSW) ▪ Kalipunan ng mga Katutubong Mamamayan ng Pilipinas (KAMP) ▪ Buklod ng Malayang Magsasaka (BUKLOD)

Source: Documentation Report of NGOs and POs in the GATT-UR debate by Ms. Aloisa Zamora for MODE Inc.

Annex C Main Features of the GATT-UR Agreement on Agriculture

- Improved Market Access has three elements: tariffication[1] and tariff reductions, minimum market access and safeguard provisions. On tarrification and tariff reductions, all border protection measures like import quotas have to be converted to customs tariffs (tariffication). The base period for the calculations is 1986-1988. In developed countries, these tariffs have to be cut by an average of 36% over a period of six years. Individual tariffs are to be reduced by at least 15% over six years. Developing countries are required to reduce their tariffs by an average of 24% over ten years. Individual tariffs are to be reduced by a minimum of 10% over ten years. The least developed countries (LDCs) are exempted. On minimum market access, countries must open their domestic markets to imports by a minimum of 3 per cent of domestic consumption rising to 5 per cent over six years.[2] For developing countries, access must increase from 1 per cent of the base period domestic consumption to 4 per cent at the end of ten years. The base period is also 1986-1988. Special safeguard provisions allow countries to impose additional tariffs in case of import surges or very low prices compared to levels in the 1986-1988 period.[3]
- On Domestic Support, policies are divided into two groups: permitted policies (Policies under the Green Box which are supposedly have minimal or no distorting effects on production or trade) and other policies included in the Aggregate Measure of Support[4] (AMS) subject to reduction commitments. Decoupled[5] direct payments associated with production limiting programmes such as payments based on fixed area and yields or livestock payments based on fixed number of heads are exempted from reduction commitments. In developed countries, total AMS has to been reduced by 20% over six years while developing countries, by 13.3% over ten years. Developing countries are also allowed to use some other policies such as investment and input subsidies under certain conditions. Under the de minimus provision, developed countries are allowed to exclude support less than 5% of output value from AMS while developing countries are allowed to exclude product-specific support less than 10% of output value from AMS. Least developed countries must bind AMS support level if applicable but they are not required to reduce it.[6]
- On Export Subsidies, direct export subsidies are to be cut by 36% over six years and the volume of subsidized exports by 21%, 2/3 the level of developed countries in ten years for developing countries The base period is 1986-1990 and calculations will be made according to individual product, not on an aggregate basis. Products without export subsidy reduction commitments can no longer impose such subsidies. Unsubsidized exports and food aid are exempted from these provisions.
- On Sanitary and Phytosanitary Measures, GATT-UR recognizes the right of governments to institute sanitary and phytosanitary measures necessary to protect human, animal or plant life and should not be used as protectionist measures or barriers to trade. These measures should be based on international standards.[7]

1 Tariffication means that members must introduce tariffs where there were non-tariff barriers (NTB) such as quotas, variable levies, minimum import prices, discretionary import licensing, state trading measures and voluntary restraint agreements. These have to be repealed and converted into an equivalent ad valorem or specific tariff.

2 Under the minimum access provision, if the import of a certain product (e.g. sugar) is less than 10% of the annual domestic consumption, a minimum access of 3% of domestic consumption is allowed. If importation is more than 10% of domestic consumption, the current volume being imported will be retained. Any importation beyond this volume will be charged with higher tariff.

3 *GATT Final Act - Agreement on Agriculture* (MTN/FA II-A1A-3), December 15, 1993, p. 4

4 Aggregate Measurement of Support (AMS) means the annual level of support, expressed in monetary terms, provided for an agricultural product in favor of the producers of the basic agricultural product or non-product-specific provided in favor of agricultural producers in general (as per definition of the GATT-UR Agreement).

5 Many European NGOs are questioning whether the EU's system of compensation payments and the US deficiency payments are decoupled from production decisions. Jenny Pryke and David Woodward asserted that "in principle, the use of past areas and yields means that compensation is decoupled from current production levels. However, in order to receive full compensation, producers must continue to sow the whole base area (less than 15 per cent set-aside in the case of larger farmers). This means that some linkage with planting decisions remains." See Jenny Pryke and David Woodward, *The GATT Agreement on Agriculture: Will It Help Developing Countries?* (London: Clip, March 1994), p. 10.

6 See note 3, pp. 6-7.

7 *GATT Final Act - An Agreement on Sanitary and Phytosanitary Measures* (MTN/FA II-A1A-4), p. 1.

Annex D GATT TRADE ROUNDS

1947, Geneva (23)
The founding countries of GATT completed some 123 negotiations and established 20 schedules which became an integral part of GATT. These covered some 45,000 tariff concessions and about US$10 billion in trade.

1949, Annecy (12)
Participants exchanged some 5,000 tariff concessions.

1951, Torquay (38)
Some 8,700 tariff concessions were exchanged, yielding tariff reductions of about 25 per cent in relation to the 1948 level.

1956, Geneva (26)
About US$2.5 billion worth of tariff reductions

1960-1961, Geneva (26)
The Dillion Round. Some 4,400 tariff concessions made, covering US$4.9 billion in trade.

1964-1967, Geneva (62)
The Kennedy Round departed from the product-by-product approach used in previous rounds and across-the-board or linear method of cutting tariffs of industrial goods. The working hypothesis of a 50 per cent target cut in tariff levels was achieved in many areas. Concessions covered an estimated total value of trade of about US$40 billion. Separate agreements were reached on grains, chemical products and a Code on Anti-Dumping.

1973-1979, Geneva (99)
The Tokyo Round. Tariff reductions and bindings covered more than US$300 billion of trade, and lowered the weighted average tariff on manufactured goods in the world's nine major industrial markets from 7.0 to 4.7 per cent. It also resulted in the recognition of preferential tariff and non-tariff treatment for and among developing countries, and liberalization of trade on many tropical products. It established "codes" on subsidies and countervailing measures, technical barriers to trade, import licensing procedures, government procurement, customs valuation, dairy products, bovine meat, civil aircraft and revised the GATT anti-dumping code.

1986, Geneva (107)
Uruguay Round. Launched by GATT Ministers on 20 September 1986 in Punta del Este, Uruguay, this is the eighth — the most complex and ambitious round of multilateral trade negotiations in the GATT. The round, expected to be completed in four years, is aimed at the further liberalization and expansion of world trade and extends the multilateral negotiations among contracting parties to such new areas as trade-related aspects of intellectual property rights, trade-related investment measures and trade in services. At the end of 1990, some 107 countries were participating in the Round.

Source: Information and Media Relations Division of the General Agreement on Tariffs and Trade, *News of the Uruguay Round of Multilateral Trade Negotiations* (Geneva, GATT, November 1990), pp. 61-63.

Annex E Background Information on the Sugar Industry

The sugar industry provides employment and considerable income to a large number of people and to government coffers. The industry claims that about 5 million people are dependent on the industry for their sustenance, of which, some 580,000 are farm and industrial workers. It also contributed P17.5 billion to Gross National Product (GNP) and more than 3 billion in taxes in 1994 (see Table 1).

Table 1: SUGAR INDUSTRY SITUATION

LABOR	
Agriculture	556,000 workers
Industrial	25,000 workers
Total no. of dependents	5 Million
INVESTMENTS	
Sugar mills	50 Billion
Farms	80 Billion
Refineries	20 Billion
Total investments	150 Billion
MARKET	
Domestic Consumption	1.76 MMT (94-95)
US Quota	146,000 MT (raw)
TAXES	
VAT & other taxes	1.2B
Income tax	1.8B
Real estate tax	136.0 M
Subsidies to government agencies	183.0 M
Contribution to GNP	17.5 B

Source of basic data: SRA (BW, 11-21-95)

The sugar industry is no longer what it used to be. Sugar exports accounted for 21 per cent of total value of Philippine traditional exports from the 1960s to mid-1970s. In 1974, for instance, sugar exports to the United States alone was valued at almost $367 million.[1] Export earnings from sugar nosedived to only $97.12 million in 1990 and to $60.62 million in 1994.[2] Data from the Sugar Regulatory Administration (SRA) show that the sugar industry contributed 2.7 per cent in the Gross Value Added (GVA) in Agriculture and Fishery and only 0.6 per cent in the GNP in 1994. Area planted to sugar is 374,629 hectares in CY 1994-95, down from a peak of 553,333 hectares in 1975-76.

Inefficiency characterizes the Philippine sugar industry of today. Industry leaders and analysts alike say that the historical dependence of the industry on the profitable US market, which provided the impetus to modernize the industry at the beginning, has led to inefficiency. Under the US Sugar Act of 1962, large sugar quotas were given to the Philippines.[3] There was no push to invest in order to improve productivity and reduce costs because there was a ready market that absorbed their production at prices higher than the world price of sugar.[4] Sugar producers (planters and millers) were, therefore, assured of big profits.

Other countries like Australia and Thailand, on the other hand, became highly efficient producers of sugar even without subsidies. The average cost of producing sugar in the Philippines is 13-14 cents per pound, compared to 6 cents in Australia, and 8-9 cents in Thailand. Given the prevailing world sugar price of 11 cents per pound, the Philippines incurs losses if it sells to the world market while Australia and Thailand gain profits.

1 Luzon Secretariat of Social Action, "Sugar Industry," *Countryside Report* (Quezon City: LUSSA, 1982), p. 88.
2 *Foreign Trade Statistics*, 1994.

3 Under the US Sugar Act of 1962 the Philippines got a quota of 1,050,000 short tons and a small shared the Cuban quota which was abolished when the US suspended its relations with Cuba. The Act was later amended in 1971. As a result, the Philippines got a "basic quota of 1,126,020 short tons and 30.08 per cent of non-Cuban deficits and any amount upon the US president's discretion." See Luzon Secretariat of Social Action, "Sugar Industry," *Countryside Report* (Quezon City: LUSSA, 1982), pp. 87-88.

4 Aurora A. Regalado, "Barriers in the Development of the Sugar Industry," *Rural Development Studies*, Volume 3 Number 4 (Quezon City: PPI, August 1992), p. 27.

ENVIRONMENT

Involvement of Non-State Actors in Coastal Resources Management *The Case of SAMAMAMU and Tambuyog in Prieto Diaz, Sorsogon*

Legally and historically, coastal natural resources are the property of the state.[1] As such, their control and management rest with the government, through the mandated agencies and government units, while their actual use is reserved for the wider public.

Under this arrangement, the state has to play the lead role in defining use and managing the resources. In the current context, this essentially means that the state should aim for wise and ecologically sound use.

The Philippines' coastal natural resources are in a sorry state. Coral reefs have been significantly degraded due to unwise and illegal practices such as poison, blast and destructive fishing as well as coral harvesting. Mangrove forests have been depleted by massive conversion to fishponds and unregulated cutting for household and commercial uses. Fisheries resources have also been exhausted. The current state of these resources raises doubts about their capacity to provide for the livelihood of the majority of the population that lives in the coastal areas. This becomes even more worrisome as those who live on the coast are among the country's poorest.

Coastal resources were degraded despite a clear mandate for the state to manage them for sustainable use and development. This can be attributed to one significant factor: a state-managed property regime for a common pool of resources is always prone to become an open access situation. This means that since there is no clear owner of the resource, anybody can use them without considering the costs to the environment and society. As there is no clear accountability, anyone can exploit these resources until they are exhausted. The state's inability to regulate the use of the resources and its captivity to rent-seekers perpetuate such a situation.

Thus, the degradation of coastal resources and the consequent effects on coastal communities are rooted in the property rights dilemma of coastal common pool resources. This can only be resolved by addressing property rights questions within the Philippine socio-political context. This, however, is not simply a political-economy question. Ecology has a dynamic of its own. There is, therefore, a need to integrate with the social response a technical response.[3]

The Response

An alternative to the current property regime is the transfer of rights to coastal resources to coastal communities themselves. Ensuring community property rights brings about popular empowerment. It also ensures the sustainability of the resources.

If the open access situation, with all its inefficient and iniquitous consequences, is replaced by a defined community property regime, it will be easier for communities to achieve sustainable development. A community property regime is the foundation on which community-based coastal resources management necessarily rests.

Community-based coastal resource management (CB-CRM) is guided by four principles: empowerment, equity, sustainability, and systems linkages.

Empowerment here means that there is actual transfer of economic and political power from a few to the impoverished majority. By transferring the access and control of resources from a few rent-seekers to the community, the latter becomes economically empowered. Moreover, as resource management is actually transferred to the residents of the community through people's organizations, and control over the resources is effectively theirs, political empowerment ensues.

Empowerment at the community level also ensures a healthy and robust civil society that can serve as counterforce to the occasional excesses of the state. In fact, actual exercise of power in so called "subsidiary levels" in contrast to a highly centralized social apparatus is the concrete manifestation of empowerment. It avoids the pitfalls experienced by former socialist countries where a highly centralized state became oppressive instead of empowering.

The principle of *equity* is linked with the principle of empowerment. Equity here means that there is equity in access and in the reaping of benefits among the community of resource users. Concretely, it means that a few cannot exploit the majority. It also means that the few cannot unjustly appropriate the wealth of a particular resource. In fisheries, equity would be attained when small fisherfolk have equal access to coastal resources as the big fishing operators.

CB-CRM also ensures that there is equity between the present and future generations. By providing for mechanisms that ensure the protection of coastal resources for future use, the rights of the yet unborn to have access over the same resources are likewise assured. Present structures that hinder development also prejudice the interests of future generations.

The third principle of CB-CRM is *sustainability*. Current development practice is anchored on the unsustainable depletion of the earth's natural resources. This means depriving future generations of the use of these resources.

Sustainability in coastal resource management does not mean that fisheries are left untouched. But it does require that each generation recognize its obligation to those after it, and that current practices should ensure that future societies will still have access to fishery resources.

System-oriented means that an analysis of the coastal ecosystem cannot be separated from other ecosystems, the bigger social and natural systems with which

it is situated. The coastal ecosystem is treated in relation to other resource systems that affect it, like the upland and lowland ecosystems. Upland activities like mining and logging have direct bearing on fisheries and must likewise be addressed by CB-CRM.

The situation of the fisherfolk and the coastal environment must be also be placed in relation to the socio-political and economic context of Philippine society. The conditions in the community should not be analyzed as an independent system but as part of a bigger social system.

CB-CRM must involve not only the fisherfolk but also the others sectors within the community. The women, youth and professionals within the community must be involved in the implementation of coastal resources management. The government, especially local agencies, has to be consulted and allowed to participate in the process. The presence of voluntary organizations that provide services in the community must be welcomed, and people's organizations must join hands with these voluntary organizations in the formulation of programs for the community's welfare.

Based on those principles, certain components of CB-CRM have been identified. These are:

Use Rights. This component determines who should use the fisheries. Use here does not mean only the actual capture of fish, but may also include the utilization of coastal resources for other purposes, such as a dumping ground or source of any other non-living resource. By defining use rights and a system of access to, and control of, these resources, outsiders are excluded. Only the community people, who are stakeholders, have rights to utilize the resource and duties to protect it. Outsiders who are allowed usage have to pay to the community.

Exchange Rights. Since the resource is sold in the market, the community must likewise have control over the channels through which their produce pass. In addition, the inputs market such as fishing supplies stores also needs to be controlled. Here, cooperatives and other forms of collective effort to seize market control will play a big role.

Distribution Entitlements. This recognizes the fact that in a coastal community, there are initial endowments. Some may already be better endowed than others. CB-CRM must therefore assure that there are equal endowments of economic and political power. The distribution of the benefits of the resource must be equitable. Equal access and opportunity for all community members have to be guaranteed.

Management Scheme and Authoritative Instrument. A community is made up of different classes and sectors. Thus, conflict-resolution mechanisms must be in place so that obedience to community policies and programs is guaranteed. There is no prescription here of what should be the actual form of this scheme. What is important is that there is a venue for determining the actual management and authority instruments to ensure compliance and order. In fact, there are existing or traditional norms and practices that may be helpful in defining the proper management and authority scheme for the community.

The SCAD Program

The role of NGOs like Tambuyog is essentially to facilitate the establishment of community property regimes under the leadership of vibrant, dynamic and autonomous people's organizations[4].

Two major thrusts have been used in building a constituency for community-based coastal resources management. The first is advocacy at the national level aimed at propagating the CB-CRM concept and building a base of advocates for the program. Activities like lobbying for a new fisheries code and other progressive policies, maintaining a folk school for CB-CRM orientation and skills, publishing materials, and setting up a resource center fall under this thrust.

The second is building a constituency through direct, area-based intervention. This is designed to promote the practice of CB-CRM at the local level and draw lessons which could be replicated in other areas. Toward this end, the Sustainable Coastal Area Development (SCAD) program was launched in three areas: Prieto Diaz, Sorsogon; Barili, Cebu; and Taytay, Palawan.

SCAD is an integrated approach aimed at building the foundation for community property regimes for coastal resources. It consists of the following components: research, training and education, organizational development, gender development and advocacy.

The research component seeks to generate information on both the social and technical conditions of the community to help in the formulation of viable, community- based resource management plans. By using participatory methodologies, it enables communities to share experiences, analyze local conditions, plan and act. The management plan generated from this participatory research is the seed from which community property rights will grow.

The training and education component provides inputs and instills resource and organizational management skills in local people who will eventually become the resource managers.

The organizational development component is geared toward building resource management cooperatives that would take the lead role in CB-CRM in the community. These resource management cooperatives would have two main thrusts: advocacy for the planned use of resources through a Resource Management Plan (RMP), and business development aimed at firming up the leadership of the RMP in the community and providing livelihood for cooperative members and services to the community at large.

The gender component essentially deals with providing venues for recognizing women's role in reproductive, productive and community-management spheres. In addition, there is an effort to make the cooperative aware of gender issues. Aside from this, a women's organization is formed to deal with gender-specific needs.

The advocacy component focuses on generating community support for the planned and sustainable use of resources through the RMP. Advocacy is one of the primary functions of the resource management cooperatives (RMCs). The RMCs' foremost target are the other resource users who do not belong to the cooperative. It also conducts advocacy work among other stakeholders, including government line agencies and local government units.

To ensure the success of these efforts, the necessary structures and mechanisms for advocacy work have to be set up. Thus, the resource users' forum is formed for the local people. The community and the government, meanwhile, meet in a multipartite body. Through these mechanisms, the RMP is discussed, finalized, adopted and implemented.

SCAD in Prieto Diaz

In 1994, the development NGO Tambuyog began implementing a SCAD program in Prieto Diaz, Sorsogon. Prior to this, Tambuyog was already involved in an "Eco-protect" capability-building project in Cebu and Iloilo. But after conducting a resource scan, the NGO decided to drop Iloilo as a project site.

Prieto Diaz was chosen instead. By then, the town had already been the beneficiary of several training seminars conducted by Tambuyog. Moreover, the local parish priest had been persistent in inviting Tambuyog to assist the area and carry on with the organizing work he had started. The priest's tenure in the town was about to end, and he was concerned about the fate of the Samahan ng Maliliit na Mangingisda sa Muntopar (SAMAMAMU) which he had helped organize.

Tambuyog made an ocular survey of the site in July 1994, and found that based on its criteria, the area was suitable for a SCAD project. It chose SAMAMAMU as its main partner in project implementation. A month after the survey, a community organizer who was going to be assigned to the area made his first visit.

The initial phase of the program had three major components: courtesy calls and introduction of Tambuyog to local government officials; preparing the people's organization for project partnership and selecting volunteer organizers; and scanning the community situation preparatory to the formulation of an intervention plan.

After the courtesy calls had been made, the focus shifted toward preparing SAMAMAMU for coastal resource management. The experiences of SAMAMAMU were synthesized through a summing-up activity undertaken by the PO leaders and Tambuyog. The summing up identified the organization's major weakness: a lack of focus in its orientation and direction. It was not clear to SAMAMAMU leaders whether the organization was primarily a cooperative or a political group. Thus, the PO had to clarify its vision and orientation. Based on such clarification, a four-month tactical plan covering August to December 1994 was drafted.

At the same time, PO leaders who would be tapped as local volunteer organizers were being consolidated into a team. A sharing session where they related their stories, strengths and weaknesses to each other was held as part of a "river of life" activity. The main purpose of the sharing was team-building.

Following the four-month tactical plan, barangay assemblies were undertaken to organize fishers in the barangays of Brillante, Tupaz, Quidolog and Rizal. In addition, a preliminary social investigation of the four barangays was done to provide the organizing team with the information they needed, such as the number of fishers, the type of gear they used, and how they marketed their produce. This information is crucial in identifying the organizing tactics to be used in the area. Moreover, the social investigation was an alternative to a comprehensive

resource scanning the could not yet be undertaken at the time because Tambuyog's research team was not yet available.

The barangay assemblies were aimed at reviving SAMAMAMU chapters in those areas and expanding their membership. "Yamang Dagat," a video documentary on the state and importance of marine resources was shown. The video seeks to promote environmental consciousness and to instill in committees a sense of urgency about the need for coastal resources management. After the video, the assemblies discussed and clarified their respective constitutions, filled up membership forms and created committees.

By October 1994, Tambuyog had adopted the cooperative as the more viable structure in implementing community-based coastal resource management. Resource management cooperatives were identified as the core structure for project implementation. This choice was made because: cooperatives instill discipline among its members and leaders; they encourage the development of technical management skills; and they allow for "democratic control." Cooperatives were also seen as the building blocks of an alternative economy where people's organizations were the stakeholders. This idea is crucial in the operationalization of the CB-CRM concept.

The month of October 1994 was devoted to the preparation and the actual training of those who would take part in a participatory research in the area. Thirty would-be leaders and SAMAMAMU members attended the training. During the sessions, the participants generated a wealth of data about different aspects of community life. Internally, however, the Tambuyog research team was faced with some problems. First, more participants came than it had anticipated. Second, the sessions themselves did not go smoothly, and lastly, there were problems among those who made up the research team.

In the same month, consultations were held with the leaders in order to clarify and systematize their community work. There were also other activities like "Linis Baybay" or a clean-up of the seashore, a project designed to instill the spirit of cooperation among the PO members.

A crucial development at this point was the setting-up of a women's project as part of the resource management and development efforts in the community. Institutionally, within Tambuyog, there was an effort to develop a gender framework for community-based coastal resources management. As part of this effort, the NGO planned to conduct gender research in Bicol and Cebu. By October 1994, the research team for Bicol was set up, a local researcher had been hired, and the gender research plan, discussed with local leaders and POs. The research team's contact group was also identified. This research was supposed to provide inputs on the integration of gender development in CB-CRM. It would also serve as the basis for future interventions on women in Prieto Diaz.

In November 1994, the actual resource scanning through participatory research was undertaken. Those who had been trained in research methods the previous month went around the community gathering information. The data generated from the training sessions and the actual research itself provided the baseline information on the socio-economic and environmental conditions of the community. A network analysis of problems and issues was conducted on the basis of this information. Then, from this network analysis of problems and issues, a five-year plan in the context of the SCAD program was developed.

The Five-Year Plan

The five-year plan for the implementation of the SCAD program in Prieto Diaz has two stages:

First Stage

1. Put together an in-depth and comprehensive database which would be the basis of program planning and implementation;
2. Transform the people's organization into a municipality-wide cooperative with small-scale projects. This cooperative will undertake savings mobilization for a capital build-up and a market study of the targeted project;
3. Organize a municipal women's cooperative;
4. Identify alternative livelihood and feasible small-scale economic activities;
5. Convene a core of resource-users who will draft the framework and principles of the resource-use plan. This will be followed by a consultation with a wider group of resource-users who will then discuss and try to reach a consensus on framework, form a secretariat, and design a research agenda for the resource-use plan.

Second Stage

1. Cooperatives, which by now shall have been equipped with management skills, begin project implementation.
2. Cooperatives assume leadership in building a critical mass of resource-users ready to work for the project.
3. A validation workshop on consolidated resource-use plans is conducted by the secretariat for finalization and eventual adoption by the resource-users.
4. Resource-users draft an advocacy plan for the creation of a tripartite body of resource-users, government agencies and NGOs;
5. Measures to boost the community's disaster management and advocacy capabilities are taken.
6. SALAMUCO is transformed into a secondary cooperative that will serve as the preparatory mechanism for the development of alternative livelihood systems.

January to May 1995

With the development of the five-year plan and the definition of the character of the social preparation phase, the stage was now set for the program's step-by-step implementation. But in the end, outside factors affected project implementation so that the first half 1995 was spent making program adjustments.

The first outside factor was the presence in the town of a Coastal Environment Project implemented by the Department of Environment and Natural Resources (DENR). This project is aimed at coastal habitat protection, which is done through a three-pronged approach: organizing resource-users and stakeholders,

providing alternative livelihood, and developing and implementing a coastal management plan.

By February 1991, FDFI, the contractor of the CEP project was already set to hand down a management plan for the municipality's adoption. This was a bit of a surprise for the SCAD implementers, as such a management plan did not go through the same intensive consultative process that SCAD did.

Thus, the SCAD team, composed of the community organizer and the PO leaders, had to adjust. It discussed with SEAMANCOR and FDFI the need to forge unity on the basis of guiding principles and a common framework for the formulation of a management plan. The groups also agreed that they had to reach a consensus on their analysis of the current status of the town's resources and how they were utilized.

By then, the presentation of the CEP management plan had already been set. A workshop had been scheduled. It was attended by the town's various stakeholders, including SAMAMAMU members. During the workshop, SAMAMAMU refused to accept the CEP's management plan because of its insistence on setting up a marine sanctuary in Kalig-an, which the organization thought was not feasible. SAMAMAMU also objected to CEP's recommended management structure.

FDFI was tasked to refine the plan and come up with a second draft. At the same time, Tambuyog and SAMAMAMU went on with the formulation of a resource management plan as they had originally planned. They also went on with the CB-CRM orientation and held a training on community organizing techniques for SAMAMAMU members. At the same time, the research on gender continued, and some PO leaders took part in exchange program that took them to Samar.

By March 1995, a three-month tactical plan was drafted in preparation for setting up the cooperative. That month, there was also a planning workshop where local leaders honed their capacity for analysis and selected appropriate organizing techniques. A CB-CRM orientation of the women's group was conducted, and the gender research made some progress. The groups also conducted a CB-CRM orientation at the barangay level with 31 participants.

The first moves toward the formation of the Municipal Development Council were also taken in March. This council was seen as the venue for pushing the CB-CRM and resource management plan. It held a meeting where the development plan of Prieto Diaz was the main agenda.

By April 1995, the local people were gearing up for the local elections. Most of the work now focused on ensuring the victory of the candidates supported by SAMAMAMU. Members took part in the campaign, supported the printing of election posters and participated in the Catholic Church-led VOTE CARE movement. At the same time, they had more trainings on cooperatives and the CB-CRM concept.

In May, all activities were focused on the elections. The election results were mixed. The mayor supported by SAMAMAMU and most of the rest of his slate were elected. But a SAMAMAMU member who ran for councilor lost.

Also in May, Tambuyog held its own conference to sum up the SCAD experiences in Bicol and Cebu and map out its future course of action. The conference affirmed the plan to push for the formation of a municipality-wide cooperative. It also studied the possibility of forming a municipal fishery development council

that would serve as a venue for advocacy in place of the municipal development council.

SAMAMAMU held a general assembly on June 20, 1995 to get the consensus of its members pertaining to the organization's transformation into a cooperative. Fourteen of the officially listed 20 members agreed. An ad hoc committee to facilitate the transformation was formed. It was composed of four local volunteer organizers who were also officials of SAMAMAMU and four elected heads of the fishers' organizations in the four barangays.

The ad hoc committee of the yet unorganized cooperative then identified other possible projects that would help unite its membership. In September, the ad hoc committee finished four project feasibility studies. In October, an assembly of all prospective members was held to choose which among the four projects would be implemented first. Seaweed farming was the first choice. A timetable for collecting the cooperative's total paid-up capital was agreed upon. On November 18, 1995, the cooperative's first general assembly was held.

Advocacy for a Resource Management Plan

In September 1995, a committee for advocacy work was formed from among the members of the cooperative's ad hoc committee. The advocacy committee, together with the Tambuyog staff, played a major role in the formation of Task Force *Banyuhay sa Dagat*.

The task force was integral to the program strategy of forming tripartite coordinating councils for managing the coastal resources of Prieto Diaz. The task force is composed of local governments, NGOs and POs, including SAMAMAMU and Tambuyog, which became members of the task force secretariat. The role of the task force was to formulate and implement a coastal resource management plan.

But even before the task force was formed, dialogues with other resource-users were already held in preparation for a resource-user's forum. The forum, however, was not set up as it was overtaken by events: the local government had itself begun dialogues with resource-users.

In June 1995, SAMAMAMU initiated a dialogue with the beach seine operators to iron out the problems caused by the use of very fine mesh nets, known locally as *baling*, in the lagoon. The use of *baling* is illegal because it catches even the juvenile fishes. It is particularly destructive during the lean fishing season, because that is when the fishes spawn.

The dialogue was held with the mediation of the mayor and the Sangguniang Bayan committee on agriculture. After a series of meetings, a compromise was reached: the size of the mesh would be adjusted to three centimeters at the pocket portion of the *baling*. It was also resolved that there would be a preparation and phaseout period before the 1989 Municipal Fisheries Ordinance banning fine mesh nets is implemented.

When the task force reviewed that ordinance in October, it found that the law was no longer appropriate to the realities of resource utilization in the area. The body agreed to consult with, and gather more data from, the resource-users and other stakeholders. The data that would be gathered, as well as those from pre-

liminary resource assessment earlier conducted by SAMAMAMU, would be used as basis for a holistic resource management plan. After the meeting, consultations and data-gathering sessions were conducted through information-education campaigns (IECs) in the coastal barangays.

The IEC campaign in each barangay was not solely intended for information gathering. It was also supposed to provide an opportunity for the task force and the community to unite on how to sustainably manage their coastal resources. These campaigns, however, were delayed due to several reasons: non-cooperation of some task force members, problems in communications, bad weather, political infighting and others. Most members of the task force still did not know what a management plan is. Because of the delay, the SCAD-Prieto Diaz team estimated that the formulation and implementation of a resource management plan would also be set back.

Still, by February 1996, Tambuyog and SAMAMAMU were preparing to draft their own management plan. They gathered more data which would be used in formulating the plan. By March, the plan was ready and was validated by SAMAMAMU. It was then submitted to the task force for its consideration.

The task force had agreed that the secretariat would integrate the two management plans: the one drafted by the DENR-CEP-FDFI and the one submitted by Tambuyog-SAMAMAMU. This plan would then be finalized for approval by the Sangguniang Bayan.

The secretariat met in April and discussed both management plans. Then in June 1995, the Sangguniang Bayan of Prieto Diaz approved the plan in principle and agreed to the request of various groups that the management plan be passed as a municipal ordinance.

Venues of Intervention

The resource management plan was the culmination of a range of activities that were undertaken in an effort to forge an authority instrument for plan formulation and implementation. These activities included:

Supporting candidates in local elections

SAMAMAMU took energetic part in the election campaign. It supported the incumbent mayor in both the 1992 and 1995 elections by participating in the VOTE CARE movement, conducting house-to-house campaigns, printing posters, and delivering significant votes. Through such participation, it gained the recognition of the local authorities and was able to use this influence to have an impact on local government plans and decisions.

Dialogue with other resource-users

SAMAMAMU initiated a dialogue with *baling* operators in order to resolve the resource-use conflict arising.from the use of an illegal fishing method. The use of *baling* nets causes a decline in mature stock and adversely affects the catch of small-scale fishers, many of whom are members of SAMAMAMU.

SAMAMAMU invited the operators to a dialogue in the presence of local officials. The issue was resolved during the dialogue. The compromise — an adjustment in the design of the nets — was supported by the mayor, who then allocated funds for its implementation. This initiative falls within the framework of reaching a consensus on the use of resources through negotiations and dialogue. The success of this initiative provided openings for SAMAMAMU's leadership in coastal resources management to be recognized by other users.

Lobbying with local officials

The support given by SAMAMAMU and Tambuyog to the mayor and most of the councilors did not ensure that all of their suggestions and plans would be looked upon with favor. Proper coastal resource management entails changing and challenging existing illegal and destructive practices of resource-use, some of which have been accepted the community, if only because of feeling that it was impossible to stop these practices. Changing the way in which coastal resources are managed will surely bring about social and economic dislocation to some resource-users and stakeholders. Thus, these changes have to be brought about by care and sensitivity, especially in the choice of methods and processes.

SAMAMAMU leaders found it difficult to convince incumbent politicians, whom they had supported, to endorse the fishers' agenda on proper resource management. PO leaders discussed the advantages of their strategy with the mayor and municipal councilors. They presented facts, figures, and historical accounts of the causes and effects of resource decline. But despite this, the process of creating a coordinating council to formulate a resource management plan proceeded at a snail's pace. The fishers had to show some indignation before the mayor finally initiated the surveillance and apprehension of fishing operators who used illegal methods like cyanide and compressors.

Forming a coordinating council for resource management

After making some headway in the dialogue with *baling* operators, SAMAMAMU soon realized that the whole set of municipal ordinances pertaining to coastal management must be in place so it could provide the parameters for implementation, enforcement and future discussions with the other resource-users and local policy-makers.

At that time, the Sangguniang Bayan, had already enacted a municipal fishery ordinance which was not being fully enforced. In cooperation with the municipal council, the CEP implementers, SEAMANCOR and other line agencies, a discussion on some of the provisions of the ordinance was held. It was found out during these discussions that some of the provisions of the ordinance such as licensing, apprehension of clearly defined illegal fishing operations and others can already be implemented while the rest have to be reviewed.

It was then pointed out that a coordinating body should be formed to tackle the enforcement and review of the municipal ordinance. This led to the creation of the Task Force *Banyuhay sa Dagat*. SAMAMAMU and Tambuyog became members of the task force together with the local government, the municipal council, CEP/DENR Region VII, FDFI, SEAMANCOR, the education department, the Association of Barangay Councils and the Catholic Church. The task force also provided

SAMAMAMU and Tambuyog with a venue to push for the formulation and implementation of a resource management plan.

Civil society as catalyzing force

SAMAMAMU and Tambuyog took an active role in the task force through their membership in the secretariat. The advocacy committee of both organizations became participants in the task force deliberations. They fought for the inclusion in the agenda of the discussions the need to ban illegal practices such as cyanide and blast fishing. In fact, they coordinated with the police and the mayor in the apprehension of several cyanide fishers. They also provided information on fishers involved in illegal activities. In addition, with help from Tambuyog, SAMAMAMU secured funding for the task force activities and for a boat that is now used to patrol Prieto Diaz waters. The funds and the boat were put in the care of the cooperative.

The task force has been identified as the potential authority instrument for resource management in Prieto Diaz. It was to the task force that SAMAMAMU and Tambuyog first took up its advocacy of the resource management plan they had formulated. The CEP also submitted a coastal management plan to the task force. The task force secretariat discussed the two plans and approved its common points. The plans are now in the process of being integrated and translated into a program.

Pressuring government through community mobilization

When the task force realized that the municipal fisheries ordinance had to be updated to make it more responsive to the realities of resource-use in the area, it conducted consultations in coastal barangays. These consultations were done through information-education campaigns in the coastal barangays.

These ongoing campaigns are not only consensus-building mechanisms. They also serve as a mechanism for putting pressure on local authorities. Once communities are aware of the indispensable value of coastal resources to their lives and of the laws that should be implemented in order to manage and use these resources sustainably, they can then lobby with local authorities for better laws and stricter enforcement.

Enterprise development

Bolstering the organization's enterprise development capacity in order to sustain policy advocacy is necessary. Corporations fund their lobbying in Congress and their media machinery from their coffers. Civil society, too, must find a way to support its advocacy from the fruits of its own enterprise. This is one of the principles espoused by SAMAMAMU and Tambuyog. Thus, SAMAMAMU was transformed into a resource management cooperative.

But unlike traditional cooperatives, the SAMAMAMU Resource Management and Multipurpose Cooperative formed a resource management advocacy committee. This shows that the cooperative's thrust is two pronged: to develop alternative livelihood mechanisms for its members and the community, and to advocate

for a planned and community-based utilization and management of coastal resources.

The cooperative aims to provide additional income for its members through a pilot project which, if it becomes successful, can be replicated in other areas. Currently being pilot-tested in the viability of seaweed farming, this project is also seen as a means to assert the community's tenurial rights to surrounding coastal areas. In addition, the cooperative has a *banca* and pig dispersal project for its members. Another project involving *patitig* fishing is being initiated to provide an additional income source for the cooperative.

Lessons and Insights

NGOs have a key role to play in providing the requisites for installing a community property regime over coastal resources. The people's organization, SAMAMAMU, as a dynamic and autonomous entity in the community, will ultimately take the lead. At this point, however, it is still difficult to draw a line between what is the initiative of the facilitating organization and what is the PO's own initiative. In the long term, as the process of capability-building advances, the resource management cooperative will take the lead role and sustain the initiative, paving the way for the eventual phase-out of Tambuyog, the facilitating organization.

SAMAMAMU and Tambuyog have asserted their leadership in the community's resource management planning and implementation. Their role in the formation and continued existence of the task force remains pivotal. They hold sway in the secretariat and have maintained close ties with the municipal chief executive and the councilor heading the task force. Through the pressure of the PO leaders during the deliberations of the task force, the enforcement of fishery laws has become more serious, as exemplified by the regular patrols jointly conducted by SAMAMAMU and the police and the actual apprehension of illegal fishers.

The formulated resource management plan, though still largely influenced by Tambuyog, is a start towards enabling the people's organization to make its own research, formulate its own plans, and lobby for its causes. The success in pushing for an resource management plan in both the task force and the Sangguniang Bayan paves the way for the planned use of resources. Implementation, of course, is more important and still needs to be followed through. But it is clear now that SAMAMAMU will play a significant role in implementing the plan, as well as in other community efforts such as research, education campaigns and projects designed to protect coastal resources and improve livelihood. The PO also continues to put pressure on law-enforcement agencies to perform their tasks.

Since not all the community people nor all the direct users of the resources are members of SAMAMAMU, the PO has to assert its the leadership role. This is not done through numbers, but through the success of its efforts. It must take the initiative to contact other users and encourage them to be a part of decision-making processes with regard to coastal resources. SAMAMAMU has already done so in its dialogue with *baling* operators and in conducting information and education campaigns. Moreover, SAMAMAMU's participation in the elections has brought

it significant gains. It was able to help elect a sympathetic local executive and a majority of the Sangguniang Bayan members.

Finally, the business projects of SAMAMAMU are designed to enhance the skills of its members in project and organizational management. It is also envisioned that later on, the business endeavors will lay a claim on coastal resources and provide improved livelihood for cooperative members.

ENDNOTES

1 Article 1, *1987 Philippine Constitution.*

2 Flor Lacanilao, "Philippine Marine Ecosystems: Issues of Concern," *Lundayan*, 4th Quarter 1990, p. 7.

3 Carlito T. Añonuevo, "On Autonomous Capability and Technofascism," in *Lundayan*, 4th Quarter 1994, p. 38.

4 Tambuyog Development Center, *Sustainable Coastal Area Development*, November 1994.

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INTERVIEWS

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NAIDA G. PASION

WOMEN'S ISSUES

Civil Society and the State in the Arena of Women's Reproductive Rights *A Case Study*

Introduction

Women's reproductive rights are generally defined in terms of the inherent right of every woman to attain "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes."[1] This implies that women have the right to be informed about, and have access to, safe, effective, affordable, acceptable and lawful methods of family planning. This also guarantees the right of access to appropriate health care services that ensure safe pregnancy and childbirth.

Women's reproductive rights therefore strike at the core of the family planning program in the Philippines, where the burden of contraception falls largely on women. Indeed, several studies have shown that while it is the men who decide on whether the couple will practice family planning,[2] it is the women who then take on the responsibility by taking pills, using IUDs and otherwise employing other female-oriented contraceptive methods.

This case study chronicles the efforts of a group of women in two municipalities. With the initial support of a non-government organization, these women were able to influence local government units to allot funds and implement programs to support family planning and women's reproductive rights.

The first municipality is Maasin, in the central part Iloilo province, some 50 kilometers from Iloilo City, the capital. The other is Anilao, a seaside town in eastern Iloilo, also some 50 kilometers from the capital.

The non-government organization Save the Children served as the catalyst for action on reproductive health in these two towns. The NGO selected Maasin and Anilao by ranking Iloilo municipalities according to their achievement in family planning. The top and the bottom third in the ranking were dropped, and from among those in the middle group, Anilao and Maasin were randomly selected.

The women who actively shaped and made possible the implementation of the program were the community volunteer health workers (CVHWs) in the two municipalities. These are volunteer health workers trained by the Department of Health, but they are not under the department's jurisdiction.

Strictly speaking, the CVHWs are accountable to the community which selected them and not to the local government health units. These health workers have organized themselves into a federation at the municipal level in an effort to increase their leverage in the town. In their activities, they did not represent themselves as part of the government health service, but as private individuals who volunteered their services to the community.

Both the NGO and the women themselves felt that the men had to be drawn into the campaign for reproductive rights. They also believed that reproductive rights cannot be completely attained if women alone carried the burden of advocacy for these rights. Thus, the project aimed to test an approach toward gender equity in reproductive health. It set as its goal that the men would: (1) show that they could change the attitudes of their fellow men in favor of family planning and women's reproductive health; and (2) campaign for local government support for reproductive health programs.

Certain assumptions are being made by this paper in order to facilitate the presentation of concepts. One, efforts toward reproductive health are equated as efforts for reproductive rights. While it is accepted that the latter is more limited, it is impossible to speak about reproductive rights if the basic requirements for reproductive health are not there. Thus, this paper presents the processes toward attaining reproductive health as an integral part of the movement towards reproductive rights.

Second, women by themselves will not be able to achieve reproductive rights if the men do not appreciate these rights. It is important that the men are liberated from the notion that they have the monopoly on decision-making on family planning. They also have to disabuse themselves from the idea that it is the women's responsibility to use contraceptives. They must also go out and openly campaign for these positions.

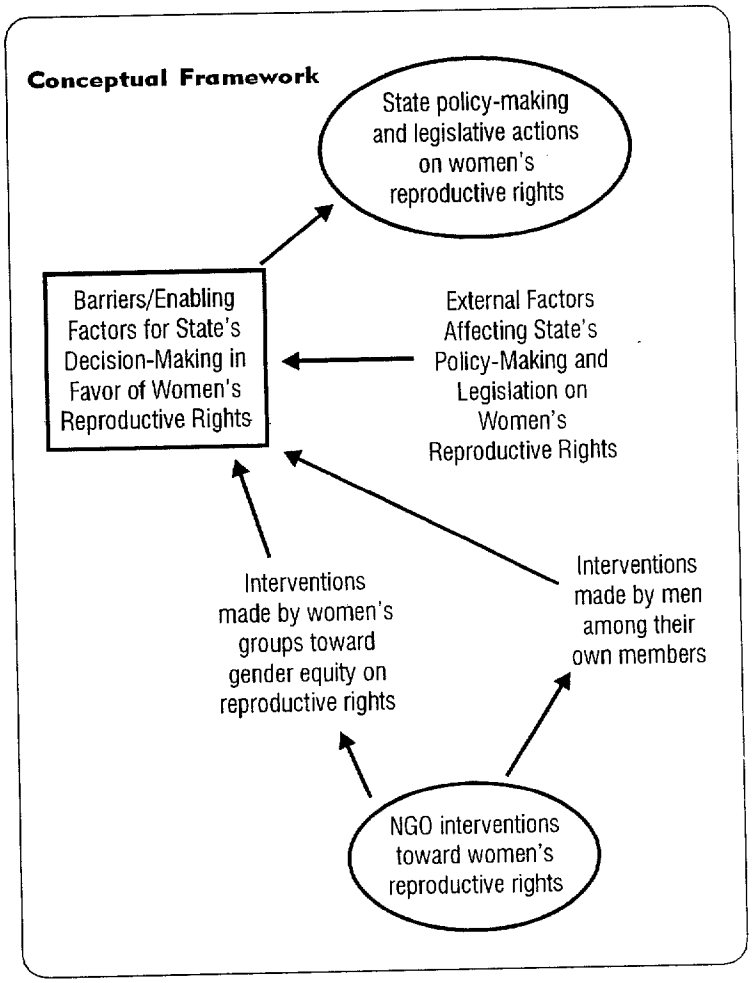
Third, policy-making interventions are defined in these paper as those actions taken by the local chief executive (the mayor) and the members of the Sangguniang Bayan, such as drafting and enacting resolutions in support of reproductive health programs and allotting more resources for reproductive health programs. Both written and unwritten policies were considered in this study.

The experiences presented in this research covers a span of 24 months from June 1994 to June 1996. A retrospective study was done to look at the policies and decisions made by the local government during the period. Focus group discussions and interviews were also conducted among key actors, such as the members of the Sangguniang Bayan of the two municipalities, staff involved in the rural health units, women volunteer health workers and male motivators.

Civil Society in Action

The NGO as Part of Civil Society

Save the Children (SC), an international NGO, began assisting community volunteer health workers in reproductive health programs in Anilao and Maasin in 1994. Basically, the concept was to test the effectiveness of male family planning



motivators in comparison with the community volunteer health workers, who were all women. The project design treated family planning motivation as a community responsibility. This meant that the responsibility for a family planning motivation program ought to be shared not just by community groups but by the barangay development council and the municipal development council.

An important aspect of the project was the attempt to shift the burden of family planning from the women to the men, giving the women the latitude to decide, together with their husbands, whether or not they will practice family planning.

It should be noted that at the start, a baseline study in the municipalities of Anilao and Maasin indicated that women did not have much influence in decision-making on family planning. Thus, there were cases where women who had more than six children seriously wanted to use contraceptive methods, but could not do so because their husbands overruled them.

The role of Save the Children was to serve as catalyst among a certain group of women by providing them with the necessary skills to motivate couples to practice family planning. Part of its role was to link these women to the municipal government, which would then provide technical, legislative, and logistical/material support for family planning efforts.

In the case of Anilao, there was an added dimension in the form of male family planning motivators. Some 70 male motivators were trained to work in tandem with the women community volunteer health workers so that together, they could put pressure on the local government to take the lead and sustain a gender-fair family planning program.

Baseline surveys commissioned by Save the Children had shown that the local government of these two municipalities did not have an active reproductive health program. Moreover, no specific support for family planning came from the local government. At that time, the local government units were still grappling with the effects of devolution and they needed to prioritize programs. Reproduc-

tive health was not a priority, and whatever attention it got was incidental, i.e. it was merely added on as a component of the local health program.

Save the Children met with the officials of both municipalities, convincing them that an effective reproductive health program would, in the end, contribute to the reduction of maternal and infant deaths. The NGO also convinced the local government that the reproductive health program, to be effective, should be a three-pronged undertaking involving the following: local women's (and men's) groups, the municipal government, and Save the Children. It was emphasized, however, that the role of Save the Children would be minimal. It would merely complement the efforts of the local family planning workers.

In their discussions with Save the Children, local officials agreed to provide the funds for the training of family planning motivators. Initially, the Sangguniang Bayan of both municipalities found the terms to be a little stiff, as they had to shell out at least P16,000 in cash for the first training. It took a series of presentations to the Sangguniang Bayan for the funds to be finally released. At this early stage, the women barangay health workers already played a role: they did the groundwork by convincing members of the Sangguniang Bayan to approve the request for funds.

Most of the resource persons for the training came from the Provincial Health Office and the Rural Health Units. Save the Children's role was to help in putting up the systems for an emerging reproductive health program. This included providing assistance to the barangay health workers, the male motivators and the local health units in setting up a monitoring and evaluation system for the program.

The Women's Groups as Part of Civil Society

The women who pushed for favorable legislation and support from the local government for reproductive rights were composed of community volunteer health workers or barangay health workers, as they were referred to in some places. These women were around 40 years old on the average, married, and more than half of them were practicing family planning at the time of the interview.

At the start of the study, these women volunteer workers were not yet organized, although they were initially trained by the Rural Health Units. They rarely got together, except when they were called by the local health units to attend meetings. When supervision over local government health units was devolved to provincial and municipal governments, these women decided to organize themselves into a municipal federation during the early part of 1995. By doing so, they demonstrated their independence from the local health units. Anyone who wants to deal with women health workers in the municipality would have to pass through the federation.

By organizing themselves, these women's groups were able to become active members of the provincial community volunteer health workers federation. Such membership in the provincial federation meant that these groups could draw from an additional source of technical and organizational support. It also established their identity as separate from the municipal health unit; thus, they were able to assert themselves as capable partners of the local government in ensuring the delivery of basic health services to the communities.

Male Motivators to Support Women's Reproductive Rights

Women volunteers in the municipality of Anilao, on the other hand, felt that men should share the responsibility for the education and motivational campaign on family planning. The plan they formulated with Save the Children involved getting the men to work in tandem with the women in motivating married males in the communities to practice family planning and to convince their wives to do so. Through the intercession of Save the Children and some women health workers, the Sangguniang Bayan approved an initial amount of P16,000 to cover the cost of training 70 male family planning motivators.

By having male family planning motivators, women were relieved of the difficult burden of convincing the men in the community to practice family planning. The first batch of male motivators was selected through the recommendation of barangay officials. This appeared to be the main reason why the first batch had a 70 percent dropout rate: the barangay development council did not strictly follow the criteria for the selection of male motivators. Six months later, the community members and the barangay health workers took a more active role in the selection and ensured that the criteria were followed.

The new batch fared much better. Thirty-five of the 38 male motivators completed the training. Moreover, they continued to do their job even after the testing period of 24 months was finished, and are still doing the work up to the present time.

The male motivators were generally younger than the community volunteer health workers. The average age was 32, and all but two of the 70 members were married. At the start of the project, only half of the male motivators were practicing family planning. This was because at the outset, the number of males targeted for training would not be reached if contraceptive use was part of the selection criteria.

It should be noted that all throughout the project implementation, and even now that the communities are continuing the campaign for reproductive health on their own, the mutually supportive roles between the male motivators and the female barangay health workers was evident. In terms of doing motivation work among the couples, the male family planning motivators did the job faster. But since they did not have the strong technical background of the barangay health workers, the male motivators referred the couples to the former, who then brought the couples to the Rural Health Units.

The couples were oriented on the various aspects of reproductive health mainly in government clinics. It was also there that they were physically examined if necessary, and were asked to select their choice of contraceptive methods, including natural family planning.

Results of the Dynamic Interaction Between the State and Civil Society

The experiences of Maasin and Anilao show that despite the doubts and mistrust between state and civil society actors, the collaboration between them can yield positive results. These can be summarized as follows:

Increased awareness of and value given to women's reproductive health by local government and the local health units

It was obvious from discussions that the majority of the members of the Sangguniang Bayan did not have adequate knowledge of reproductive health and were mostly operating on the basis of misconceptions about the issue. These officials were initially skeptical about the program, as reproductive health programs, unlike infrastructure projects, are not easily seen by their constituents. Moreover, Church opposition to contraception and the belief systems of the local government officials themselves posed obstacles to the acceptance of the program. The municipal councilors argued that such a program would impinge on the personal and private decisions taken by married couples. They also still subscribe to the idea that as far as farm work is concerned, families with more children are at an advantage because they have readily available labor in their own households.

Two years after the program's implementation, a significant change can be noted in the way the members of the Sangguniang Bayan and the mayors themselves discussed reproductive health. They have started to acknowledge the positive economic effects of family planning and reproductive health, particularly among low-income families.

Among the staff of the Rural Health Unit, there was a noticeable increase in the attention given to the promotion of reproductive health. In the past, ensuring reproductive health was treated as just another task they were burdened with. Today, there is a pronounced change in their attitude. RHU staff now conduct regular monthly visits to assist community health workers and male family planning motivators carry out their tasks for reproductive health. The staff at the RHU unit also devotes more time and is perceptibly more patient in explaining the various aspects of reproductive health to couples seeking their assistance.

It also mattered that the women's groups and the male family planning motivators were monitoring the performance of the Rural Health Unit staff on which they relied for support services. The absences of Rural Health Unit Staff assigned to the project noticeably declined. In the words of the women who were in the focus group discussions, the Rural Health Unit staff became more accommodating and more welcoming than they were in the past.

The majority of barangays covered by the project also provided funds from their budgets to support the activities of the community volunteer health workers and the male family planning motivators. The health workers were confident that the activities for reproductive health would go on even after the project was over because of the support coming from the barangay development councils. These councils paid for the volunteers' travel expenses. They also provided for meal allowances when volunteers attended meetings related to their work as health service providers and family planning motivators.

Recognizing the complementary roles of male motivators and women volunteer health workers, the municipal health officer of Maasin proposed to the local government that it also recruit and train male motivators for family planning. This strategy became part of the reproductive health program of the municipality beginning January 1997.

Faster government response to reproductive health issues

The support given by local governments to the reproductive health program was the result of civil society intervention. According to one of the members of the Sangguniang Bayan, had it been just a member of the health board or the local population program who came to them for support, they would not have approved the project in just two weeks. The councilors were impressed by the fact that the volunteer health workers were persistent with their request and were backed up by an NGO that had a long track record of service.

The officials of the two municipalities not only approved financial support for the program, they also designated the municipal health officer, the midwives assigned to the areas covered, and the public health nurses to provide the following support:

(a) *Management and technical assistance in the series of seminars on reproductive health conducted for both the male motivators and the barangay health workers.* The municipal health officer, the public health nurses and the midwives formed part of the training team. Moreover, the midwives were designated by the local government to provide continuing technical support through the monthly meetings of the male motivators and the barangay health workers. During these monthly meetings, the Rural Health Unit staff provided technical updates on reproductive health to the women health workers and the male motivators. They likewise assisted the health workers thresh out problems involving the motivation and referral of target couples.

(b) *Monitoring and technical support in the implementation of motivational and referral activities for reproductive health.* Most of the public health nurses and the midwives frequently visited the workers at home and in their areas of assignment, so that they could see for themselves how the information dissemination and the motivational work were done. In the process, they also gathered the monthly reports of the male motivators and the women health workers and consolidated these as reference for the NGO partner and the local health unit.

(c) *Logistical support for program implementation.* Due to the increasing demand for contraceptives and services, the local government increased its budget for reproductive health services and supplies. Table 1 shows the comparative budget estimates at the start of the project in 1994 and at the end of the project in 1996. The budget was computed in terms of the time allocated by nurses and midwives for the reproductive health program (estimated at a conservative five percent of their person- year at the beginning of the project, and at 15 percent at the end of the project).

Table 1 Comparative Estimates of Reproductive Health Budgets in Anilao and Maasin before and after the Implementation of the Private-Public Sector Collaboration

Period	Budget Estimate (Anilao)	Budget Estimate (Maasin)
Baseline 1994 (in Pesos)	26,500	37,000
Post-implementation 1996 (in Pesos)	91,900	78,488
Percent change	246.8	112.1

Positive ripple effects on other aspects of the government's health program

The community members interviewed observed that the number of visits of the health workers to the communities has increased significantly. These visits have created positive effects for other program components such as nutrition and maternal health care because these were also included in the services delivered by the local health staff.

Effects on the well-being of the people

Increase in the Contraceptive Prevalence Rate (CPR). The best proof that the critical collaboration between civil society and the state worked is the fact that the targets set by the program were met. The first important result is the significant increase in the CPR after the interventions, where CPR is defined as:

$$\frac{\text{Number of couples (where the wife's age is 15-49) using family planning methods}}{\text{Total number of couples in a municipality where the wife's age is 15-49}}$$

A representative sample of 150 couples was selected using systematic random sampling from each municipality. The CPR for the sample was taken before the program began. At the end of 24 months, the CPR for another representative sample of 150 couples was again taken.

At the same time, a third municipality was selected as the control area. This was San Dionisio, a town some 80 kilometers north of Iloilo City, that like Maasin and Anilao belonged to the third bracket of "medium" level of accomplishment in family planning. Again, a representative sample of 150 couples was randomly selected there. Table 2 shows the results of the study.

It would be good to note that in the case of Maasin, the biggest change in contraceptive use was brought about by the increased number of natural family planning practitioners. This was because at the second year of the project, a local NGO called Iloilo Natural Family Planning Association Incorporated (INAI) trained volunteers in Maasin to campaign for natural family planning methods.

Confidence and self-determination gained by women's groups. When asked what was one of the major effects of the work on reproductive health with the local government, the women health workers readily cited that they have grown more confident in their dealings with the local government and the staff of the Rural Health Unit. They said that the experience has taught them that if they were organized and serious about pursuing clearly defined objectives, they could get what they wanted.

The reproductive health program, according to the women health workers, has given more hope to women who did not really want to have more children, but could not get their husbands to agree to the idea.

Table 2 Contraceptive Prevalence Rate (CPR) in the study areas before and after the Implementation of Reproductive Health Interventions in Anilao and Maasin

Period	CPR Maasin	CPR Anilao	CPR San Dionisio	Remarks
Baseline 1994	48.0	48.7	57.8	Comparable CPR at the start for Maasin and Anilao
Post-implementation 1996	71.3	61.3	63.3	No intervention was given to San Dionisio for private/ government sector
Percent change Z-test	23.3 4.2*	12.3 2.5*	5.5 0.92	*Results for both municipalities of Maasin and Anilao are significant at 5% level of confidence

Lessons Learned

The experience of Maasin and Anilao has shown that the collaboration between the state and civil society can have many benefits for many people. The success of such a partnership, however, hinges on the following:

There must be a catalyst to start the partnership between the state and civil society.

In this case, an external NGO broached to women health workers the possibility of initiating a program on reproductive health. It is possible that a local NGO could have done the same, or that the women health workers themselves would have realized the need for such a program in due time. However, what was essential was that these women identified something which they could work together on. The program also necessitated a mutually supportive relationship with other members of the community, and of course, the local government.

This experience has underscored the fact that NGOs should not take over the functions of the local government. Nor should NGOs compete with the local government for the cooperation and support of people's organizations. NGOs are most effective acting as a bridge between the people's organization and the local government. While doing so, they can also assist community groups to strengthen themselves to assert their claim-making rights. At the same time, they can also provide technical assistance to the local government so it can meet increasing citizens' demands.

Because of their relative flexibility compared to local governments, NGOs can provide a whole range of support to the former. In this case, the NGO helped the local health unit test strategies to improve its operational efficiency and impact. It should be underscored, however, that to ensure continued successful collaboration between people's groups and the local government, the role of the NGO should always be seen as temporary. The NGO should not fall into the trap of treating itself as a people's organization competing with the resources of the local

government, while at the same time delaying and derailing the journey of the people's organizations toward self-determination.

There is a need to counteract the influence of opposing groups like the Church.

As part of civil society, the Church could be a valuable ally in development undertakings. However, it can also be a major stumbling block. Nowhere is the influence of the Church more felt than in government programs on reproductive health. This was true to a certain extent with this project, where there were several documented cases of public health nurses who tended to be absent from work during days when IUD insertions were done. Later, it was found that these nurses deliberately absented themselves rather than defy the teachings of the Church.

It should be noted that during the initial implementation of the project, the Church launched a series of attacks against the government's family planning program. These attacks were made during homilies in Sunday masses, when pastoral letters were read condemning the government's reproductive health program. During the focus group discussion, one participant narrated that when she wanted to have a tubal ligation at the district health hospital, she was asked by the staff there to secure a letter of endorsement from the parish priest. When she was not able to get the letter, she was then advised to have the procedure done at a private clinic. Since she could not afford the P3,000 the clinic charged for the operation, she chose to forego it.

On the whole, however, while there were cases like the ones cited above, these did not sway the decisions of the target population. In terms of acceptance of particular contraceptive methods, the women cited 1) convenience and 2) lack of known side effects as their basis for choosing a family planning method. Religion apparently did not figure much in their decisions to practice family planning.

There is a need to sustain a complementary relationship between local government officials and the women's groups.

The initial relationship between the government and citizens' groups is usually marked by distrust. Thus, once they decide to get together and do something, the state and civil society should try to forge a long-term, harmonious, and complementary relationship.

The involvement of community groups in the planning processes of the government, such as the preparation of municipal development plans and strategic planning sessions, contributed to building a positive relationship. Joint field monitoring also proved to be helpful, as long as there were feedback sessions after each visit that allowed both teams to share insights and observations. In the case of Maasin and Anilao, the regular monthly meetings between the local health workers and the male motivators served as an effective venue for the exchange of information and for taking common action.

Devolution can, and must work for women's reproductive rights.

The project started when the Local Government Code was being implemented for the first time. The transfer of health personnel to local government units created confusion among them, and this contributed the delay in the schedule of

training activities. However, devolution turned out to be advantageous because it allowed local government executives to take the initiative to support the municipal reproductive health program. In fact, devolution has made it easier for local government officials to make decisions and to appropriate funds for the program.

In the end, the experience in Iloilo has shown that together, the state and civil society can be involved in a mutually beneficial program to ensure women's reproductive rights. Such encouraging experience can be replicated not just in health programs, but in other areas of programming for development as well.

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1 See United Nations, *Proceedings of the International Conference on Population and Development*, New York, 1994.

2 See Tubelleja, 1977; Nguyen-Ho, 1987; David, 1993.

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SOCORRO L. REYES

WOMEN'S ISSUES

Legislative Advocacy for a New Anti-Rape Law *A Case Study*

The Framework

Women's rights are human rights — inalienable, inherent and indivisible. Religion and culture cannot and should not be used to deny the universality of these rights, which are guaranteed by international conventions such as the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social, and Cultural Rights (1966) and the Convention on the Elimination of All Forms of Discrimination Against Women (1979). The Philippines is a signatory to all these human rights instruments. The Philippine Constitution itself declares that "the state recognizes the dignity of every human person and guarantees the full respect for human rights."

Violence — such as rape, incest and wife battery — violates a woman's human rights: her right to life, dignity, liberty and security of person, and her right to be free from torture or cruel, inhuman or degrading punishment. At the UN World Conference on Human Rights in June 1993, a Declaration on the Elimination of Violence against Women was presented, and in March 1994, the UN Commission on Human Rights appointed a Special Rapporteur on Violence against Women. The present law on rape, however, does not recognize rape as a crime against persons and a violation of human rights. In Title 11 of the Revised Penal Code, rape is classified as a crime against chastity; as such, it is a private offense. Women's groups have contested this classification, arguing that rape is an attack not on a virtue like chastity, but on the personhood of the victim, a violation not only of her physical, but emotional and spiritual, being as well.

The Philippine jurisprudence on rape is over 70 years old. Since then, conditions have radically changed. Life has become more hazardous for women, so laws have to be updated to make the home, the workplace, and the streets safe for them. Women have also realized that unless they participate in making decisions about their lives, by being involved in policy structures like legislatures, and unless they hold their elected representatives accountable, laws will continue to be oppressive and insensitive to their life situations and realities.

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Legislative Advocacy

The decision to take part in the legislative process did not come easy for women's groups. Most of them were part of radical social and ideological movements committed to the structural transformation of society. The traditional view in these movements is that intervention in legislation is a reformist approach.

But in early 1992, several women activists realized that a strategic opportunity to advance the women's cause through legislation should not be missed. By that time, the term of the first democratically elected legislature after the Marcos dictatorship was about to end. It was then that 11 women's organizations formed SIBOL or Sama-samang Inisyatiba ng mga Kababaihan para sa Pagbabago ng Batas at Lipunan.

These groups were involved in such issues as political participation, violence against women, women's health, trafficking and prostitution, and women and work. Among them, a consensus had emerged that legislative advocacy was an important way to address women's issues and problems. After long and tedious discussions, they concluded that the legislative arena is a strategic one for articulating women's needs and demanding that the state take responsibility for addressing women's concerns. They also took the time to analyze the meaning of, and requirements for, successful legislative advocacy.

SIBOL realized that legislative advocacy requires formulating an agenda, doing research, and understanding the structures and dynamics of Congress. One of its member organizations, the Center for Legislative Development (then known as the Congressional Research and Training Service) provided the technical expertise in orienting the coalition about the "what, when, where, and how" of the legislative process.

Realizing that effective advocacy is like a rifle shot aimed at a target rather than a shotgun blast spreading in all directions, SIBOL chose the issue of violence against women (VAW) as its priority for advocacy in the Ninth Congress (1992-1995). Several factors led to this decision:

(1) The growing consciousness in the women's movement that violence against women is a public, rather than private, issue;
(2) The realization that VAW has a strong mobilizing effect not only because of its widespread occurrence but also because of the even more widespread concern that any woman can fall victim to violence;
(3) The involvement of most SIBOL member organizations in the issue, either by providing services to survivor victims of violence through crisis centers, working with prostituted women, or legal counseling, etc.;
(4) The availability of research-based information and analysis on the subject; and
(5) The proliferation of VAW bills filed in Congress, most of which did not reflect the women's perspective.

Among the various forms of violence against women, SIBOL decided to focus on rape not only because of its frequent occurrence and the increasing brutality of recent cases, but also because the existing rape law is one of the most sexist and anti-woman laws in the country.

Feminists consider rape as more than just an issue of crime: to them, it is also a power issue. From the feminist point of view, rape manifests male domination and control in a patriarchal society where women are regarded as mere objects of sex and pleasure. Under existing law, a victim's sexual history is material to establishing whether or not rape was committed. It is often said that in the prosecution of rape cases, the woman who has been abused is as much on trial as the accused. In fact, the woman can send her rapist to jail only if she is able to establish her chastity beyond reasonable doubt.

Yet the possibility of rape stalks every Filipino woman of whatever age, education, and class background. A young girl of eight was gang-raped and murdered; so was a 17-year old student going home from school; and a night-shift waitress working in a fast food chain to support herself through nursing school met a similar fate. A highly educated, married, career woman has also accused a prominent business executive in Davao of raping her.

It is estimated that every six hours, one woman is raped in the country. The Philippine National Police (PNP) reported that while the incidence of robberies and murders decreased by six and 27 percent respectively between 1991 and 1993, rape cases rose by 25 percent.[1] The real figure is probably higher considering that only 20 percent of cases are reported. Thus, the 2,285 rape cases reported in 1993 can be actually as high as 11,425, if it is presumed that 80 percent of cases go unreported. In the first quarter of 1996, the PNP reported a 40 percent increase in reported cases of rape.

Crafting the Anti-Rape Bill: What the Women Want

SIBOL worked on a bill redefining rape through one of its six clusters, that on violence against women. This cluster is composed of groups that directly deal with, and handle cases of, survivor victims of violence: the Women's Legal Bureau (WLB), the Women's Crisis Center (WCC), GABRIELA Commission on Violence (which has since then withdrawn its membership), PILIPINA, and WEDPRO, among others.

With its wealth of legal experience, the WLB took the lead in reviewing and combing through existing statutory provisions on rape. It wrote the draft of a new law based on a feminist perspective. The draft was subjected to months of consultation and discussion. The result was a "rape bill that can be truly considered that of women, as it reflects women's experience and is responsive and sensitive to the situation of victim/survivors of rape; a product of the intertwining of rich, practical, based-on-reality inputs and legal thinking."[2]

It was also a very comprehensive and thoroughly researched bill. For example, SIBOL proposed gender-sensitive changes on several aspects of existing rape laws: the definition and classification of rape; the inclusion of marital rape; increased penalties and damages; and a change in the evidentiary requirements. It also proposed protective measures for rape complainants.

Definition of Rape

SIBOL sought to expand the definition of rape beyond carnal knowledge or penile penetration of the female genitalia to include:

(1) penile penetration of the anal orifice;
(2) the insertion of objects, instruments, and other parts of the body into the genitalia or anal orifice of another person;
(3) the insertion of the penis into the mouth of another person; and
(4) forced sexual intercourse with an animal whether through the mouth, genital, or vagina.

At present, crimes of this nature are penalized merely as acts of lasciviousness under Article 336 of the Revised Penal Code and are punishable by a maximum penalty of six years imprisonment, lower than the penalty for rape. Women's advocates considered this unjust, as these actions, although not defined as rape, are as violative of a person's humanity as is forced penile penetration.

A new circumstance of "abuse of authority or relationship" attending the crime of rape was also incorporated into the bill. This occurs in a situation where the offender's authority or moral ascendancy over the offended party facilitates sexual intercourse, even if he does not use threat or intimidation, or the offended party is not deprived of reason or consciousness. Treated as qualified seduction by Article 337 of the Revised Penal Code, the present law specifies that the victim should be a "virgin over 12 years of age and under 18" and prescribes a penalty lighter than rape: "from six months and one day to four years and two months." SIBOL rejects the requirements of age and virginity of the offended party because they restrict prosecution and perpetuates the chauvinistic view that a woman must be chaste to experience violation through sexual intercourse.

Classification of Rape

The present definition of rape is "having carnal knowledge of a woman by using force or intimidation, or when the woman is deprived of reason or otherwise unconscious, or when she is below 12 years old." There is no mention at all that a woman should be celibate, virgin, or pure. With this classification of rape as a crime against chastity, single women who lead sexually active lives or are prostituted, will find it extremely difficult to prove that they had been raped. It also denies the reality that rape violates the very core of the victim's person, much like other crimes such as murder and homicide, which are considered crimes against persons. To correct this, Section 3 of the SIBOL bill states that "the crime of rape shall hereafter be considered a crime against persons."

Rape is further designated as a private offense under current laws; thus, prosecution can only be conducted when a valid complaint of rape was filed by "the offended woman, the parents, grandparents, or guardians, in that successive order."

Marital Rape

A provision in the SIBOL bill which has generated much debate is Section 2, which provides that "the marital relationship between the offender and the offended party shall not serve as a legal impediment to the commission of the crime of rape by one against the other." Under existing laws, the husband can be held guilty of rape only when the husband forces himself on the wife when they are legally separated. *De facto* separation is not sufficient legal ground for charging the husband with rape.

Central to the issue of marital rape is whether in the marriage contract, there was unconditional surrender of the woman's body to the husband, allowing him to have sex with her whenever he pleased and whether or not she consented. SIBOL contends that in marriage, both spouses have a right to consortium that includes sexual relations with each other without violating the other's right to liberty. Rape in marriage thus occurs when a woman is forced to have sex with her husband. SIBOL's argument is that a woman does not surrender her human rights to liberty and human dignity when she gets married. That would constitute discrimination and a violation of all international human rights documents and conventions that guarantee human beings rights and freedoms "without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status."

Penalties and Damages

Under current law, rape is considered a heinous crime penalized by either life imprisonment or death. Article 335 of the Revised Penal Code provides: "Whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *reclusion perpetua* to death. When by reason or on occasion of the rape, the victim has become insane, the penalty shall be death. When the rape is attempted or frustrated, and a homicide is committed by reason or on the occasion thereof, the penalty shall likewise be death. When by reason or on the occasion of rape, a homicide is committed, the penalty shall be death."

SIBOL has taken an unequivocal position against the death penalty which it considers a violation of human rights. Instead, it proposes in Section 6 of the bill that the crime of rape shall be punished by life imprisonment. However, it also demands that "any other crime committed by reason or on occasion of rape shall be considered a separate offense and the rules on complex crimes shall not apply. In no case shall rape be considered a mere aggravating circumstance when it is committed by reason or on occasion of the commission of another crime."

Complex crimes are committed when "a single act constitutes two or more grave or less grave felonies, or when an offense is a necessary means for committing the other."[3] In complex crimes, the penalty for the most serious crime shall be imposed, thus only one penalty is imposed on the offender for two or more offenses committed. SIBOL argues that crimes committed on occasion of the rape shall be prosecuted and penalized as separate offenses.

Contending that rape should not be used as a mere aggravating circumstance of another crime, the SIBOL bill proposes instead that the following circumstances shall aggravate the crime of rape: "knowledge of the offender of the pregnancy of the offended party, if the latter is a woman, at the time of the commission of the crime; and knowledge of the offender of his or her infection with the HIV virus or other sexually transmitted disease at the time of the commission of the crime."

In addition to the damages that may be awarded to rape victims by existing law, the SIBOL bill proposes that the following circumstances shall warrant the award of additional damages:

(1) When the offended party becomes insane or suffers any psychological damage by reason of the crime.
(2) When the offended party is killed by reason or on occasion of the rape.

(3) When the offended party is infected with the HIV virus or other incurable or life-threatening disease by reason of the crime. In such a case, the court shall also order the offender to shoulder all medical expenses of the victim and to provide lifetime financial support to the latter regardless of whether he or she became incapacitated for work because of the rape.
(4) When the offended party becomes physically disfigured or disabled by reason of the crime.

Evidentiary Requirements

For a woman to prove that she was raped, present rules of evidence require that she present proof that she fought with all her might the advances of her attacker and show the "utmost reluctance and resistance to the best of her ability and strength to establish the two elements of rape by use of force—carnal knowledge by one of the parties and non-consent thereto by the other."

SIBOL criticizes the macho slant of this requirement and argues that resistance may in fact lead to more savagery on the part of the offender and even cause the death of the victim. It is also possible, according to psychologists, for the object of the rape to freeze in fear, unable to shout or move any part of her body. The SIBOL anti-rape bill thus proposes in Section 9, paragraph 1, that "physical or verbal resistance in any degree on the part of the complainant against any act that may constitute rape, or the attendance of a situation rendering the complainant incapable of exercising his or her free will and of presenting even verbal resistance, shall be *prima facie* evidence of the lack of consent."

Three other factors commonly taken into consideration in the prosecution of rape cases work against women-victims of rape: sexual history of the complainant and nature of her work; previous amorous relationships; and the right of the accused to prove his good moral character.

In rape cases, courts generally admit evidence regarding the complainant's past sexual conduct or reputation for the purpose of impeaching her credibility. Thus, sexually active, unmarried women and prostitutes are assumed to consent more easily to sexual intercourse than chaste, inexperienced women. SIBOL contends that any person regardless of her sexual activities or occupation may be raped.

The present Rules of Court allow the accused to prove her/his good moral character as a defense against charges leveled against her/him. The prosecution cannot be the first to bring up the issue of the accused's moral character. It can only react if that is used by the accused as a line of defense. SIBOL proposes that the "accused may not introduce evidence to prove the unimpeachability of his character unless in rebuttal." This will prevent the accused from availing of her/his good reputation to get an acquittal. In many rape cases, the accused tries to establish his unassailable reputation, his good family background, high educational attainment, membership in religious organizations, etc., to show that he cannot possibly commit rape. The offended party who does not have the same status in society is likely to lose her case.

The defense in rape cases also uses previously existing amorous relationships between the two parties to disprove the commission of rape. While Supreme Court decisions tend to dismiss amorous relations as a defense in rape, it requires the presence of "force and violence" to prove rape. To address this situation, the

SIBOL bill in paragraph 4 of Section 9, declares: "The amorous relationship between the offender and the offended party shall never be construed as indicative of the likelihood of consent nor shall it be considered as tending to establish the improbability of the commission of the crime."

Protective Measures for the Complainant

Rape complainants often suffer from another round of humiliation and violation during police interrogation, medical examination, court hearings and the ensuing media coverage of their case. Police investigators, who are usually male, are prone to ask questions with malice, often insinuating that the woman's behavior or way of dressing may have provoked the rape. Sensitivity to the woman's physical, psychological and emotional trauma is usually non-existent. Aggravating the situation is the police precinct's environment, where curious onlookers add to the victim's embarrassment.

The medico-legal examination of the rape victim is usually conducted with the same insensitivity and lack of privacy by predominantly male interns or physicians. At a time when the victims need not only medical but also emotional caring, they meet only indifferent, unsupportive medical practitioners.

To deal with this situation, the SIBOL bill proposes that "It shall be the duty of the concerned police investigator or examining physician, who shall preferably be of the same sex as the complainant, to ensure that only persons expressly authorized by the complainant are allowed inside the room where the police interrogation or medico-legal examination is conducted. The failure of the police investigator or examining physician to ensure compliance with this provision shall render him/her administratively liable."

Court hearings are often harrowing experiences for women rape victims. They recount the sordid details of the attack and are grilled by the defense for possible evidence of consent or invitation to sexual intercourse, flaws in character, and other manifestations of loose, immoral behavior. The ordeal discourages rape victims from bringing their case to court and seeking justice for a grievous wrong committed against their persons. Section 12 of the SIBOL bill thus provides that "every complainant in a rape case has the right to request for a closed-door hearing in court." This not only guarantees the victim's constitutional right to privacy but protects her from prying eyes.

The media generally sensationalize rape stories with sexually explicit narration and photographs to titillate the reading public and increase their sales. With little or no respect for the victim's feelings, they turn the tragedy into a sex drama that becomes a the topic of conversations in beer houses, saunas, bars, and similar places. Far from hiding who the victim is, they give hints and clues that make identification fairly easy even without the disclosure of names. To address this problem, SIBOL proposes that "Media reporting of rape cases shall be limited to the basic facts of the case, devoid of sensationalism. The name and address of the offended party, and any other information tending to establish his/her identity, shall not be included in the report, unless the offended party gives his or her consent in writing. Any violation of this provision shall render the reporter or columnist as well as the editor and publisher in the case of printed material, or the newscaster/reporter, director and producer in the case of television and radio broadcasts, solidarily liable for damages."

Advocacy: The Science and the Art

SIBOL's lobbying for an anti-rape bill spanned two legislative terms, that of the Ninth Congress (1992–1995) and the Tenth (1995–1998). In the Ninth Congress, the bill was introduced in the House by Rep. Glenda Ecleo, then chair of the Committee on Women and in the Senate by Senator Nikki Coseteng, also the chair of the Committee on Women. There was much opposition then to the bill, which was described by many as "too radical" and "overhauling established principles of jurisprudence" specifically in relation to the expanded definition of rape.

The media picked up the issue, and not long after, SIBOL members found themselves guesting in television talk shows, radio programs, and being quoted in newspaper columns and articles. SIBOL members lobbied the members of both Houses extensively, dialogued with known opponents of the bill, approached heads and members of strategic committees, testified in committee hearings (and walked out on one), provided expert legal opinion, and shared the experiences of rape survivors. Despite these efforts, the Ninth Congress adjourned without the SIBOL bill reaching the floor of the House, although it was debated on second reading in the Senate.

In assessing its gains and losses in legislative advocacy in the Ninth Congress, SIBOL cited the empowering experience it had when drafting and pushing for the anti-rape bill in Congress. Having something to say and do in solving their problem, the women felt that they were starting to take charge of their lives. Defining for themselves what rape is, based on their own realities and life situation, allowed women to express who they are, what they want, and who they like to be.

Another significant achievement was being able to raise rape to the level of policy debate. The issue was brought not only to public attention but also to the agenda of Congress. Focused on economic reform, the priorities of Congress were liberalization measures to attract more foreign investments in infrastructure, banking and the oil industry, etc. With the compelling arguments made by organized advocates, legislators were forced to recognize the urgency of addressing the issue of violence against women through the anti-rape bill.

Enriched by the lessons learned in the Ninth Congress and inspired by the growing support from various sectors and government agencies, particularly the National Commission on the Role of Filipino Women (NCRFW), SIBOL resumed its advocacy work in the Tenth Congress with more confidence and expertise. Now it knew from experience that legislative advocacy is both a science and an art.

As a science, advocacy uses systematic methods to achieve its goals. Strategic planning is needed for successful advocacy: it ensures the highest output-to-input, outcome-to-task, result-to-effort ratio. SIBOL grounded its advocacy strategy on the realities of its internal and external environment. It assessed its internal capabilities and constraints while at the same time gauging the opportunities and threats from its external environment. Aware of its limited resources, SIBOL decided to plan more systematically its advocacy efforts in the legislature, the media, and the public.

As an art, advocacy demands creativity, innovativeness, and flexibility. The most carefully and strategically laid out advocacy plan might have to be shelved or modified because of unforeseen changes in the political environment. New

targets of opportunity might present themselves or power might switch hands overnight, as it did a number of times at the Senate. Advocates learned early in the game the importance of strategic timing, of seizing the moment.

Advocacy in the Legislature

The new Congress elected in 1995 was not much different from the old one. Eighty percent of its members had been re-elected. Thus, a staunch critic of the anti-rape bill stayed on in the House, although another vocal critic, who had chaired the House Committee on Justice, had been elected governor and was now out of Congress. The number of elected women representatives remained at 21 or 10 percent of the House membership, while in the Senate the number of women doubled from two to four out of 24 or 16 percent. There were some new and young faces, all male, in the Lower House whom SIBOL perceived as possible supporters of the bill. After the new legislature was elected, the first thing SIBOL did was to examine the profiles of the members of Congress and identify possible allies and potential opponents.

Then it reviewed its maximum and minimum positions on the anti-rape bill. What provisions were negotiable and what were not? What is the bottomline? To SIBOL members, the expanded definition of rape, its reclassification as a crime against persons, and unqualified marital rape were non-negotiable.

Research is an indispensable part of advocacy. Legislators demand facts and figures from valid and reliable studies. SIBOL knew this was an important tool and made research an integral part of its advocacy plan. To reinforce its position that the universal definition of rape is being changed, SIBOL came up with studies on rape laws in several countries in Europe and some states in the United States where rape encompasses acts beyond penile penetration. And to show that marital rape is recognized as a crime by Philippine courts, SIBOL cited the case of *Arroyo vs. Arroyo* (42 Phil.54[1921]), where the Supreme Court affirmed a wife's right to liberty in deciding whether or not to have sex with her husband. It refused the husband's prayer for the court to order the wife to perform the obligation to consortium since this is a personal obligation that the wife cannot be compelled to perform.

A digest of selected rape cases was prepared by the Women's Legal Bureau for SIBOL to show:

(1) How and why abuse of authority should be included as a ground for rape, as in the case of a 22-year-old singer whose father abused her almost every other day from the time she was 10 until she was 15 years old;
(2) Rape can happen in marriage, as experienced by a 31-year old career woman whose husband rammed three fingers into her vagina and asked her whether she would rather have a *dos por dos*;
(3) Fear can paralyze a woman, rendering her incapable of shouting or resisting her rapists, which happened to a seamstress in a garments factory who was drugged and raped by her abductors;
(4) Involvement in an amorous relationship does not render rape impossible, as demonstrated in the story of an 18-year old made pregnant by her abuser to whom she wrote "love letters" so he would leave her alone;
(5) A delay in reporting a rape case should not be taken against the victim, especially when the circumstances do not allow that the reporting be done sooner

as what happened to a 15-year old girl who left home and was raped by a man who brought her to the province;

(6) An insensitive court process "victimizes a woman twice over" as when a gang rape victim was made to repeatedly demonstrate in court the "pumping motion.

SIBOL members presented their research to the individual legislators or their chiefs of staff. The chairpersons and members of the referral committees (the Committee on Women and Family Relations and the Committee on the Revision of Laws in the House and the Senate) were SIBOL's special targets because they would determine whether or not the bill will ever see the light of dawn. The committee can do anything with the bill: report it out as it is, consolidate it with bills on the same subject, substitute it with an entirely new bill or throw it out altogether.

SIBOL members diligently followed committee deliberations on the bill in both Houses, testified in committee hearings, provided committees with research-based information and analysis, and cultivated the friendship of committee secretaries. The latter are strategic resources for advocacy because they draw up the list of individuals and organizations to be invited to committee hearings, which they schedule in consultation with their bosses. They also document the proceedings of committee meetings, prepare the committee report on the bill and brief the members on procedural and substantive issues. Committee secretaries are useful sources of information and updates on developments on the bill, whether it is moving, when it is most likely to be taken up, etc.

After a committee decides on a bill, its fate is decided by Committee on Rules which calendars the bill for floor deliberation. Constituted on the basis of proportional representation of political parties, the rules committee can choose to prioritize or freeze the bill. SIBOL talked to the committee members and argued that rape has taken on the proportion of a national crisis and should be addressed as a priority issue.

SIBOL also met with the leadership of both the House and the Senate, asking for their support in the passage of the bill. Women's lobbying reached the executive, and the President included the enactment of the rape bill as one of the priority items in the Social Reform Agenda. Consultations were held with women's groups by the Social Reform Council, and it looked like SIBOL was gaining support from the policy influentials.

When the anti-rape bill reached the floor in both the House and the Senate, the women followed very closely not only the trend of the discussion but who was saying what in both the interpellation and the amendment process. The bill sponsor, the legislator who chairs the primary committee of referral, is crucial at this stage. In the House, it was Rep. Sergio Apostol, chair of the Committee on Justice, and in the Senate, Senator Leticia Shahani, the chair of the Committee on Women and Family Relations.

Media Advocacy

SIBOL also took its advocacy to the media: print, radio, and television. Women other than those who were visible in media advocacy during the Ninth Congress were tapped. The objective was to prove that these views were shared by a broad spectrum of women supporters. Press conferences were held and carefully written

briefing materials were distributed. Feminist columnists raised questions on various aspects of the rape bill.

The media are the best way to reach as many people as possible over a short period of time. They popularize an issue, and the public is able to identify with the problem. Media advocacy is one of the most effective ways to gain public support for proposed policy solutions. At the height of the controversy over the anti-rape bill, almost all newspapers, TV talk shows, and popular radio programs provided space and time for advocates and opponents. SIBOL members contributed money for a half-page newspaper advertisement on why the progressive anti-rape bill should be passed NOW.

Community Advocacy

Through its member organizations, SIBOL mobilized community support for the bill. The organizations' chapters in rural areas explained how the women themselves crafted the legislative proposal to change the anti-woman, sexist, provisions of the present law on rape. It was stressed that rape is a violation not of a woman's chastity but of her person and of her human rights.

Peasant, worker and urban poor women from different parts of the country endorsed the proposed legislation. Progressive students from various schools and universities outside of Metro Manila launched signature campaigns exhorting legislators, particularly their elected representatives, to vote for the enactment of the bill into law.

In November 1992, women from all over the country joined the march to observe the Day to End Violence. In 1994, the Women's Crisis Center initiated a regional consultation on Family Violence Prevention. SIBOL members and supporters toured provinces and cities to talk about rape. This inspired many women's groups to include rape in their own agendas. SIBOL's nationwide advocacy campaign was conducted through awareness-raising seminars, forums, and group discussions with grassroots women and other sectoral organizations.

The Senate and House Versions of the Bill

Four- and-a-half years after SIBOL drafted the anti-rape bill, the Senate and the House passed two different versions of the bill after extensive debate and deliberation and the equally intense lobbying of women's organizations. The salient points of the bills are:

(1) Definition of rape

The Senate version expanded the definition of rape beyond penile penetration of the female genitalia to include "insertion of the penis into the mouth or anus; insertion of any part of the body other than the sexual organ into the genitalia or anus; introduction of any object or instrument into the genitalia or anus; and subjecting a woman to have sexual intercourse with an animal." The House version stuck to the traditional definition of rape as carnal knowledge and called all the other acts sexual assault. The crime of sexual assault was given a penalty lesser than rape, i.e., prision mayor (six to 12 years). The penalty of *reclusion*

temporal (12 to 20 years) shall be imposed if there are aggravating circumstances. If homicide is committed, the punishment shall be *reclusion perpetua.*

(2) Circumstances of the rape

The Senate agreed with SIBOL that rape is committed "through force or intimidation; by means of abuse of authority or relationship; and when the woman is deprived of reason or otherwise unconscious." It raised the age of statutory rape to "under 14 years of age" even though neither of the first two circumstances is present." The House dropped "threat" and "abuse of authority or relationship," added "drugged" as another circumstance, and to the age of 12 stated "even though neither of the circumstances mentioned in the two next preceding paragraphs shall be present."

(3) Circumstances of the sexual assault

Present only in the House bill, the circumstances of sexual assault are the same as rape but included threat.

(4) Reclassification of rape

Both agreed that rape should be reclassified as a crime against persons.

(5) Marital rape

The Senate accepted the SIBOL view that marital rape should not be conditional and "the fact that the offender is the legal husband of the offended party shall not negate the commission of the offense (rape)." However, it departed from the SIBOL bill when it provided that the subsequent forgiveness by the wife as the offended party shall extinguish the criminal action or the penalty. This will not apply, however, if the marriage was null and void *ab initio.*

Instead of marital rape, the House bill spoke of sexual assault in marriage when it said: "The marital relationship between the offender and the offended party shall not serve as a legal impediment to the prosecution of the crime of SEXUAL ASSAULT by one against the other."

(6) Evidentiary Requirements

SIBOL's proposal was adopted by the Senate when it provided that "any overt act manifesting resistance against the act of rape in any degree from the offended party, or where the offended party is so situated as to render her incapable of giving valid consent, shall be *prima facie* evidence that acts punished were committed against the will of the offended party." Three important suggestions of SIBOL were, however, left out: sexual history of the offended party may not be used as an issue in the prosecution of the case; the accused may not introduce evidence about the unimpeachability of his character unless in rebuttal; and amorous relationship between the offender and the offended party shall not be construed as indicative of the likelihood of consent.

The House bill did not include any provision on evidentiary requirements and is therefore understood to uphold existing rules and practices.

(7) Who may file complaint

Both the House and Senate bills were silent on this, which means that existing law will apply: only the offended party or parents, legal guardian or grandparents may file.

(8) When the death penalty shall be imposed

The House and the Senate both agreed that the death penalty shall be imposed when the offended party is in the custody of the police, military authorities or penal institutions, or when rape is committed by any member of the armed forces, the PNP or any law-enforcement agency.

In addition, the House said: "When the victim is a religious engaged in legitimate religious vocation or calling and is personally known to be such by the offender before or at the time of the commission of the crime."

SIBOL, however, has stood firm in its opposition to the death penalty.

(9) Duties of law enforcers

The Senate bill mandates police officers to: "(a) immediately conduct an investigation; (b) arrange for counseling and medical services for the offended party; (c) gather evidence for the arrest and prosecution of the offender; and (d) make a report on the investigation and endorse the same to the proper prosecution office within 24 hours from the conclusion of the investigation but not later than 72 hours from the time the complaint was filed."

SIBOL's point about the rape victim's need for privacy in both investigation and medical examination was heeded by the Senate when it provided that "it shall be the duty of the police officer or the examining physician who must preferably be of the same gender as the offended party, to ensure that only persons expressly authorized by the offended party shall be allowed inside the room where the investigation or medical or physical examination is being conducted."

The House bill does not have a similar provision.

(10) Protective measures

To protect both the offended party and the accused from any "social degradation, embarrassment, humiliation or any other emotional stress and trauma brought about by undue and sensationalized publicity," the Senate bill provides that the police officer, prosecutor, or the court may order a closed-door investigation, prosecution, or trial. They can also order that the name and any other personal circumstances of the offended party and/or the accused shall not be disclosed to the public.

If it is a government official or employee who is charged with the crime of rape, he shall immediately be subject to preventive suspension of not longer than 90 calendar days.

To protect the offended party from social degradation, embarrassment or any other emotional stress and trauma brought about by "undue and sensationalized publicity," the Senate bill holds solidarily liable for damages the "reporter or columnist, editor and publisher in case of printed materials, and the newscaster or announcer, director and producer in case of radio or television broadcasts."

The House bill does not touch this subject.

(11) Support services

The establishment of rape crisis centers in government hospitals, health clinics, or any other suitable place in every province and city is contained in the Senate Bill. The Department of Social Welfare and Development (DSWD) shall assist the departments of health, justice, and interior and local government, and a non-government organization with experience in handling sexual abuse cases. The centers will provide rape victims with psychological counseling, medical and health services, including medico-legal examination. It will also assist rape victims get legal assistance to hasten the arrest of offenders and the filing of case in court. A very important part of its work is to develop and undertake a training program for law-enforcement officers, public prosecutors, lawyers, medico-legal officers, social workers, and barangay officials on "human rights and responsibilities, gender sensitivity and legal management of rape cases."

The Senate allocated P120 million for the establishment and operation of the rape crisis centers during the first year of the law's implementation. It also said that there will be budgetary allocations for the centers in subsequent years.

The House bill does not provide for the establishment of rape crisis centers.

The Senate bill evidently hews more closely to the provisions of the SIBOL bill. It met the minimum demands of the women for an expanded definition of rape to cover acts previously categorized as acts of lasciviousness; reclassified rape as a crime against persons; and included an unqualified provision on marital rape. In addition, it added abuse of authority in the circumstances of rape; raised the age for statutory rape to 14 and below; accepted that any overt act of resistance shall be prima facie evidence that rape has been committed; mandated swift police action on rape complaints; protected the offended party from public humiliation and embarrassment in court hearings and media sensationalism; and provided for support services through the establishment of rape crisis centers in every province and city.

Reconciling the Two Versions

The Senate and the House bills were referred to a bicameral conference committee that will reconcile the differences. Normally, the chairs of the referral committees and selected members are chosen to take part in the conference committee. From the House, 11 members were chosen, six of them women, including the chair of the Committee on Women and the women's sectoral representative. They were Rep. Luz Bakunawa, Leonor Ines Luciano, Bellaflor Angara-Castillo, Tessie Aquino-Oreta, Thelma Almario and Lally Laurel-Trinidad. The men included the chair and vice-chair of the Committee on Revision of Laws, the primary committee

of referral. The bill's strongest opponent in the previous Congress was also among the conferees. The male members were Rep. Sergio Apostol, Edgar Lara, Erasmo Damasing, Manuel Roxas and Baltazar Sator.

The Senate contingent of six had three women and three men. Led by the chair of the Senate Committee on Women, Anna Dominique Coseteng, the other members were Leticia Shahani, Miriam Defensor-Santiago, Raul Roco, Marcelo Fernan and Franklin Drilon.

SIBOL immediately sprang to action and sent letters and position papers to the members of the conference committee and the leadership of both Houses, reiterating its position on the anti-rape bill. The chair of the House Committee on Women called SIBOL to a meeting and explained why they cannot accept the SIBOL version. The principal sponsor who valiantly defended the bill while being interpellated on the floor for hours expressed the same view.

After several postponements, the first conference committee meeting was finally held. With the help of the chair of the Senate Committee on Women, 10 members of SIBOL managed to get inside the meeting room, but were later asked to leave. Those who remained outside staged a picket urging the conferees to pass a progressive anti-rape law.

The bicameral conference committee meetings were marred by resignations, walkouts, shouting matches, accusations, counter-accusations, and the like. The women patiently waited for the final resolution of the legislators' differences and wished that their efforts of several years will not be wasted. This was expressed in an open letter sent to the conferees and editors of major newspaper dailies.

The New Anti-Rape Law: Did the Women Get What They Want?

After five long years, a new Anti-Rape Law (Republic Act No.8353) was passed by Congress and signed by the President on September 30, 1997. What features of the SIBOL rape bill got into the final version? Was the old law radically changed? Can the women attribute the passage of this new law to the effectiveness of their advocacy?

The law's reclassification of rape from a crime against chastity to a crime against persons was a major victory for SIBOL. The expansion of the definition of rape beyond penile penetration of the vagina was however only partially met. The "insertion of the penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person" was considered sexual assault rather than rape. The women's insistence that a marital rape provision be included in the law was only indirectly addressed by the provision that "in case it is the legal husband who is the offender, the subsequent forgiveness by the wife as the offended party shall extinguish the criminal action or the penalty..." This is the most contentious provision of the bicameral conference committee report and for a while posed a threat to the final approval of the bill on third reading. A significant number of male legislators rejected the inclusion of marital rape in the law even in the most indirect way. The change in the evidentiary requirements to prove rape proposed in the SIBOL Anti-Rape bill was reflected in the new law's provision that "any physical overt act in any degree from the of-

fended party" shall be accepted as evidence of resistance in the prosecution of rape.

Legislation, like politics, is the art of the possible. The women put up a good fight. But in the end, compromises have to be made and settlements, reached. While the law leaves much to be desired, a significant policy change has occurred in the way the state views rape. But there were other gains as well for civil society and democracy. The players particularly the women developed their capability to participate in the policy process. They learned the importance of strategic planning for advocacy. They studied the structures and dynamics of the policy process and masterfully navigated the policy arena. Decision-making became open, participatory and pluralistic. Legislators were pressed to respond to their constituents' demands for the passage of a progressive, pro-women Anti-Rape law. Accountability to the people who elected them was firmly asserted. Democracy was indeed alive when women took the initiative to draft the bill, held nationwide consultations to gain popular support, knocked on the doors of legislators to dialogue with them, and secured the passage of a law which may not be the best, but under the circumstances, is the most they can get!

Strengths and Weaknesses of SIBOL Advocacy

The driving force of SIBOL's legislative advocacy is its feminist belief that women's oppression is institutionalized in the laws and structures of a patriarchal society. Although often criticized as slow and unproductive, the legislative process is the battleground for competing interests prescribing different approaches to policy problems. The products are laws which distribute scarce resources and values in society, such as the protection of women from all forms of violence. Laws reflect the state's priorities and commitment to address problems demanding public action.

The women's struggle for change is strongly informed by the principle that women's rights are human rights. Throughout their advocacy for the rape bill, women's groups consistently brought up international human rights instruments that protect women's liberty, dignity, and equality and which the Philippines signed on.

With this strongly and deeply felt commitment to change policy tools of male domination and control, SIBOL was able to deal with the challenges of legislative advocacy, a new arena for most of its members. It weathered the patriarchal attitudes of legislators, unpredictable committee hearings, and endless floor debates. But the obstacles are not all external to the women's movement. There were those within the movement who were not fired with the same passion for supporting the anti-rape bill as SIBOL was. But SIBOL learned to convince those who were in the fringes to join in the action. After all, women's issues are the issues of all women, whatever their ideological or political position.

As a legislative advocacy organization, SIBOL's strengths derive not only from its well-defined feminist perspective and commitment, but the varied expertise of its members. The Women's Legal Bureau carried out systematic and extensive researches on cases and court decisions here and abroad on the definition, circumstances, and evidentiary requirements of rape. Well-written and documented posi-

tion papers were regularly provided to SIBOL members and legislators. The Center for Legislative Development (CLD) shared information and insights on lobbying in Congress: the access and entry points, the obstacles and impediments, the major and minor players, and who gets what, when, and how. It came out with a regular legislative monitor tracking bills on women: where they are and what can be done.

The Institute for Social Studies and Action (ISSA) was also keeping an eye on Congress, particularly its actions on the issue of women's reproductive health. The Women's Crisis Center documented the stories of survivor victims of rape. WEDPRO contributed its research on prostituted women. WOMAN HEALTH mobilized its chapters throughout the country to support the anti-rape bill. So did the Democratic Socialist Women of the Philippines (DSWP), which has a broad mass base of grassroots women all over the country. KALAYAAN contributed its deep understanding and analysis of feminism. PILIPINA, a coalition of women's organizations, is not new in legislative advocacy. In 1989, it initiated the formation of a group called Legislative Advocates for Women (LAW) which was organized around sectoral issues. MAKALAYA brought the perspective of women workers who have various forms of oppression and violence.

Another of SIBOL's strengths is its conscious and systematic effort to review and assess its gains and losses, and make the necessary changes in its strategy to adopt to changing circumstances. Uncompromising in its basic position of redefining and reclassifying rape within the framework of women's rights as human rights, SIBOL nevertheless recognizes where it is futile to resist and accommodation has to be made. It also realizes that in advocacy, problems can be turned into opportunities, and long-term successes often come in the guise of short-term failures.

SIBOL's weaknesses are organizational in nature: the absence of structure, lack of financial resources, and a full-time core of advocates. The first is being addressed through the development of a constitution and by-laws which will be discussed in SIBOL's General Assembly meeting. Annual membership dues are collected to defray the cost of meetings, but since advocacy requires funds for production of materials, research and other expenses, finances remain problematic. But there is an unwavering commitment among SIBOL members to press on despite these difficulties.

The bigger investment in legislative advocacy is time—to monitor what's happening in Congress and being there when it matters; to engage the legislators one on one and get their support; to guest in TV talk shows, radio programs, etc.; to hold press conferences; to research and write advocacy materials. To do these effectively, a full-time staff is required. Unfortunately, SIBOL has neither the money nor the people for this kind of job. With their own respective work agenda in their home organizations, the best that member organizations can do is assign at least one person to attend to SIBOL matters.

Conclusion

Legislative advocacy, the women found out, is an empowering process. They realized that lawmaking is not the lawmaker's job alone and that women, when they are organized, can make their influence and impact felt. But legislative advocacy is a long-term strategy and its aim is not only to change the law but also to make women's participation a permanent feature of the policy-making process. As new players in the field, women's groups realize that the political arena is wide and varied, and that engagement in this arena can help address women's concerns. Women can be involved in politics not just as elected officials but as advocates of the women's cause as well. Ultimately, however, women have to actively seek positions of formal political authority through elections in order to better fulfill their agenda. The number of legislators initiating pro-women legislation and blocking the contrary has to increase over time. The current 10 percent representation of women in Congress has not given women the critical mass needed to ensure the passage of progressive legislation like the anti-rape bill.

As a strategy for change, legislative advocacy has to be combined with consciousness-raising, community organizing, and groundbreaking empowerment programs for women. Legislative advocacy is an empty exercise if not rooted in the awareness and consciousness of women's oppression in patriarchy. Laws are just the instruments to perpetuate the unequal and unjust position of women in society. SIBOL had a difficult time getting the message of the anti-rape bill across to some legislators, men and women alike, precisely because of this lack of consciousness of women's oppression.

Based in the capital, SIBOL lacks the community outreach so essential to effective legislative advocacy. So far, outreach has been done through the local chapters of SIBOL member organizations, but it is becoming increasingly clear that SIBOL should build its own mass base. Advocacy materials should also be popularized to draw as many readers and supporters as possible.

The transformation of women's lives requires a holistic approach that interrelates the socio-economic, cultural and political aspects of women's life situations. Groundbreaking programs for women should address all these dimensions. Advocacy skills-building not anchored on the need of grassroots women for livelihood is not sufficient. But so are economic projects for women not rooted in the awareness that gender as an organizing principle of society has deprived women of equal opportunities to work and earn the same wages as men.

In the end, the effectiveness of legislative advocacy as a strategic approach will be measured not in terms of the number of pro-women bills enacted into law, but in terms of how they have changed women's lives.

ENDNOTES

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MIGRANT WORKERS

Labor Recruitment Agencies and the Decision-Making Process in the Philippine Overseas Employment Administration (POEA) *Open for Business*

Rationale and Introduction

Since the 1970s, overseas employment has been a major concern of developing countries like the Philippines. In 1976, some 47,000 Filipino workers went abroad to work, as part of a government policy that encouraged overseas employment. By 1992, that figure had increased to more than 686,000. Today Filipinos are found in more than 140 countries worldwide. Remittances sent by Filipinos overseas make up a significant portion of the country's foreign exchange earnings.

In recent times, few issues have raised as much public concern as overseas employment. The stories of the bad times that befell Filipino workers overseas — the plight of the likes of Maricris Sioson, Flor Contemplacion and Sarah Balabagan — have become deeply ingrained in the Filipino psyche.[1] In all of these instances, the main issue raised was the inadequacy of policies that would mitigate the negative impact of overseas migration.

Most of those involved in migration issues, including NGOs, academics and government bureaucrats, believe that government is solely responsible for easing the plight of overseas Filipinos. While this is largely true, it cannot be denied that other social forces, agents and institutions also help shape public policies and outcomes. Migration itself is the product of the interplay of complex global forces that are often beyond the control of national governments.

On the whole, much attention has been paid to the changing patterns of government policy. But there has not been enough study of the reasons behind these changes, other than to attribute them to external or political factors, such as a coming election. Moreover, while public perceptions on overseas employment and related issues have merited a great deal of concern, there is less attention paid on understanding how public perceptions impact on the policy-making process and affect policy outcomes.

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Research Objectives

This study reexamines the dynamics of societal participation in decision and policy-making as shown in the changes and the continuities of Philippine overseas employment policy. It attempts to examine the extent to which the private sector, i.e., the network of labor recruitment agencies in the Philippines, connect with bureaucrats and policy-makers in government. Private recruitment agencies account for a substantial portion of the annual overseas deployments of Filipino migrant workers.[2]

More specifically, the study aims to:

1. Describe and critique the processes of agenda setting, policy-formulation and policy-implementation within the Philippine Overseas Employment Administration (POEA), the principal agency in charge of labor migration policies;
2. Illustrate and analyze the experiences of private labor recruitment agencies in the agenda-setting, policy-formulation and implementation mechanisms of government;
3. Document the extent to which private recruitment agencies are able to reflect and amplify the needs and interests of Filipino overseas migrant workers; and
4. Identify alternative avenues of discourse and intervention mechanisms in policy-making that are more likely to effect meaningful changes for all parties concerned (e.g., the state, the recruitment agencies and the migrant workers).

Corollary to these, the study also intends to:

1. Identify the major labor migration-related policy issues and concerns of private recruitment agencies that have an impact on the policy-making process in the POEA; and
2. Describe the extent of divergence and convergence among private recruitment agencies in their participation in the policy-making process.

Research Problems

Most of the attention given to the decision-making process on overseas employment policies has been on the responses and interventions of the legislature. This focus invariably underestimates the capability of executive agencies to shape policy outcomes. Likewise, considerable concern is given to the outcome (e.g., policies, programs and procedures) and less on the process of arriving at policy decisions or even of identifying policy options and objectives. Moreover, the general view is that policy-making and implementing agencies are detached from, or are basically uninfluenced by, civil society.

Of late, however, substantial attention has been given to what non-government and people's organizations have to say, especially about the protection of the welfare of overseas workers. In fact, welfare issues have become the paramount concern, to the detriment of other issues related to overseas migration. This is particularly so in researches involving the implementation of the 1991 Local Government Code (RA 7160).[4]

It is not easy to understand the linkage between civil society and the bureaucracy in the context of an era shaped by globalization and democratization. Filipinos are interacting more actively with the rest of the world than anytime in the past. Such interaction takes place in the economic, social, political and cultural spheres of life.

Overseas employment is, of course, one of the more significant ways in which the Philippines interacts with the world. But it is not a harmless interaction; instead it has resulted in a broad range of psychological, social, economic and political problems.[5] Such problems take place at a time when the country is democratizing the structures of governance. In general, the study is concerned with providing answers to the question: How is the bureaucracy influenced by sectors of civil society? More concretely, the study intends to respond to the following questions:

1. What are the major intervention mechanisms adopted by private recruitment agencies in affecting the policy-making process? To what extent have these intervention mechanisms been successful relative to their interests and needs as well as the interests of the state and migrant workers' NGOs and POs?
2. To what extent do the perspectives and positions of labor recruitment agencies differ from those of government and migrant workers represented by NGOs and POs and those articulated in public opinion surveys?
3. To what extent have private recruitment agencies arrived at a convergence of perspectives and positions on the overseas employment program? and
4. What critical factors and issues come into play among private recruitment agencies and the POEA in the formulation of policies regarding overseas migrant workers?

Framework

An important context for this study is the dynamics of the relationship between democratization, development and globalization. Indeed, the democratization movement in the Philippines and in many other Asian countries has had a significant impact on the policies of states, particularly on the crafting of development programs and strategies. Policies that pursue a specific development track do not always coincide with, and may even contradict, other social, cultural, economic and political needs. Democratization, however, often mitigates the negative impact of such development programs by involving sectors of civil society in the decision-making process.

But this is possible only if the democratic environment puts a premium on consensus among different sectors. At the same time, however, too much consensus-seeking may result in indecisiveness and a lack of focus. That is why, pluralism may not necessarily result in decisive policies that have an impact over the long term.

In this study, the term "private recruitment agencies" refers to persons or entities engaged in the enlistment and deployment of Filipinos for overseas, either for a fee or for free. This research specifies and considers three types of recruitment agents. These are:

- *manning agencies* – entities engaged in the recruitment and deployment of seafarers for jobs on foreign-registered sea vessels;
- *entertainment promoters* – those engaged in the recruitment and deployment of entertainers; and
- *service contractors* – those involved in the supply of land-based labor for specific contracts or projects overseas.

The study argues that the policy-making process in the POEA is influenced by perceptions or subjective assessments of both bureaucrats and private sector representatives. Likewise, in structural terms, the bureaucracy has yet to adopt decision-making and agenda-setting mechanisms that go beyond the current, largely reactive welfare-focused issues that involve a small, albeit significant, sector of the Filipino migrant population.

Research Design

In order to respond to these concerns, the study utilizes a number of data-generating methods. The first is interviews with key informants. In all, 18 key informants from the different sectors involved (government and private) were identified and selected. Unfortunately, because of the unavailability of many and the limited time devoted to the research, only half of those identified were successfully interviewed The second method is the culling from secondary sources such as statistics, legal documents and researches written on the issue of overseas employment and migration.

The POEA: Creation and Context

The Philippines began to actively pursue a policy to promote the deployment of its workers abroad as the overseas labor market expanded rapidly beginning in the mid-1970s.[6] This policy was first formally enunciated in the 1974 Labor Code, otherwise known as Presidential Decree 442. The POEA was formed to manage an ad hoc program intended to address what were presumed to be transitory economic issues and concerns, such as unemployment problem, balance-of-payments deficits, etc.

At that time, the thrust of the overseas employment program was to enhance the image of the Filipino nation rather than to address the social and psychological concerns of migrant workers (e.g., illegal recruitment, non-payment of wages, sexual and physical abuse, etc.). Hence, Filipino workers abroad were seen as "ambassadors of goodwill" rather than being hailed as the "present-day heroes" as they were in 1990s. Under PD 442, it became the avowed policy of the state "to ensure careful selection of Filipino workers for overseas employment *in order to protect the good name of the Philippines abroad* [emphasis mine]."[7]

Presidential Decree 442 also recognized the important role of the private sector, particularly of the private employment (recruitment) sector "in the development and implementation of a comprehensive employment program" and encouraged it to "participate in the recruitment and placement of workers, locally and overseas..."[8]

Likewise, the Labor Code provided for the creation of several mechanisms and agencies that in effect institutionalized an otherwise ad hoc or reactive overseas employment program as a long-term part of the government agenda. The agencies then involved in the recruitment and deployment of Filipino labor abroad included the National Seamen Board (NSB); the Bureau of Employment Services (BES); and the Overseas Employment Development Board (OEDB).

At that time, each agency operated under its own rules and procedures and was guided by its own organizational chart, even if they were formed out of the same policy mandate, program and department. All of them were constituted under the then Ministry of Labor and Employment (MOLE).

In May 1982, the functions of these three agencies were collapsed into one organization, the Philippine Overseas Employment Administration (POEA). With the POEA, a more comprehensive, systematic and official policy on overseas employment was born. Since its inception, the principal mandate of the agency has been to:

a. Promote and develop overseas employment opportunities in cooperation with relevant government institutions and the private sector;
b. Establish the environment conducive to the continued operations of legitimate, responsible and professional private agencies;
c. Afford protection to Filipino workers and their families, promote their interests and safeguard their welfare; and
d. Develop and implement programs for the effective monitoring of returning contract workers, promoting their re-training and re-employment or their smooth reintegration into the mainstream of the national economy."[9]

More specifically, the mandate of the POEA focused more on the determination, formulation, review and implementation of (a) market development activities; (b) employment standards; and (c) private recruitment agency regulation and licensing. It now became possible for government to streamline operations pertaining to the pursuit of the overseas employment program. A related agency was likewise formed to oversee operations pertaining to the welfare of Filipino overseas workers — the Overseas Workers Welfare Administration (OWWA).

Despite provisions to make its rules and regulations more efficient and effective, PD 442 (as amended) lacked specific stipulations providing for the welfare and safety of Filipino migrant workers overseas.[10] Such a deficiency proved to be the main impetus for the creation of the OWWA, the POEA's partner agency. In 1995, Republic Act 8042 was passed even if existing rules and regulations already provided for government welfare services to Filipino workers overseas.[11]

Both the POEA and the OWWA continued to operate under the supervision of the MOLE, and subsequently, the Department of Labor and Employment (DOLE).

In 1987, the POEA was reorganized through Executive Order Number 247, which expanded and specified its powers and functions. In addition to those cited above, the POEA mandate now also included the power to:

- Regulate private sector participation in the recruitment and overseas placement of workers by setting up a licensing and registration system...

- Exercise original and exclusive jurisdiction to hear and decide all claims arising out of an employer-employee relationship... and all pre-employment cases...
- Maintain a registry of skills for overseas placements... [and]
- Establish and maintain close relationship and enter into joint projects with the Department of Foreign Affairs, Philippine Tourism Authority, Manila International Airport Authority, Department of Justice, Department of Budget and Management and other relevant government agencies in the pursuit of its objectives. The Administration shall also establish and maintain joint projects with private organizations, domestic or foreign, in the furtherance of its objectives."[12]

Modes of Decision-Making on Overseas Employment

The POEA has hewed to several patterns of decision-making through the nearly 20 years that it has been implementing the government's overseas employment program.

During the Marcos administration, overseas employment-related policies were said to be "hastened by the efficient dispatch of presidential decrees, executive orders and proclamations."[13] Most of these were unilateral directives coordinated to a great extent by a technocratic elite. At that time, overseas employment was seen as a stopgap measure to deal with domestic unemployment and underemployment, balance-of-payments deficits, and other socio-economic and political problems.

In the 1970s and the 1980s, overseas employment was not yet seen as a permanent program; neither was it viewed as a major industry. There does not appear to be a substantive and more critical understanding of the dynamics of decision-making during this period. Instead, decision-making was viewed in terms of the tussles between politicians on one hand and bureaucrats and technocrats on the other.

During the Aquino administration, observers have noted the shifting of the formulation of migration policies from technocrats and bureaucrats to the legislature.[14] But this view ignores the peculiar dynamism of the policy-making process within the executive branch and between it and the rest of civil society. It somehow simplifies the issue to one between bureaucrats and technocrats from the executive branch on one side and politicians and legislators on the other.

As the principal agency pursuing the government's overseas employment program, the POEA has a complex organizational and decision-making structure. Under the Office of the Administrator are three deputy administrators: one for employment and welfare; another for management services; and the third for adjudication and employment-regulation. In addition, there are four directors, 15 branches, 31 divisions and a contingent of regional extension units (REUs) and field offices nationwide.[15] The current rules and regulations provide for a directorate on overseas employment to assist the administrator in the day-to-day execution of POEA programs. This body is composed of all the deputy administrators and directors, with the administrator as chairperson.

At the highest and more formal level, the chief policy-setting body for the POEA is the governing board. This board recommends to the labor secretary any changes in policies, rules or regulations pertaining to the program. Before Republic Act 8042 was ratified in 1995, the board was composed of only three members: the labor secretary, the POEA administrator and a private sector representative. RA 8042, otherwise known as the Migrant Workers and Overseas Filipinos Act, added three members to the board — one representative each for land-based workers, sea-based workers and women migrants.

In addition to the board, there are other less formal but equally decisive bodies that assist the administrator in setting and implementing policy guidelines and procedures. These are the ad hoc technical and advisory committees that are formed to advise the administrator. These committees are formed around very specific concerns (e.g., the deployment of entertainment workers) and are characterized by the strong participation of private sector representatives, including those from workers' groups, NGOs and private recruitment agencies.

These technical advisory committees inform and recommend to the board changes in policy or suggestions on the institutionalization of new policies and procedures. The board through its chairperson, the labor secretary, subsequently acts on these recommendations. Basically, the private sector, through these committees, tells the government what it should do. As one POEA executive said: "Experience tells us that their recommendations are almost always taken into consideration."[16]

The Policy-Making Environment in the POEA

The government's pursuit of the overseas employment program can generally be described as palliative, reactive and ambivalent. This is so because the policy-making process that has been adopted has become increasingly consensual, open, and highly inclusive or hospitable to the intervention of the private sector.

Decision-making in the POEA is characterized by consultations with sectors involved in, or affected by, overseas employment. Each new administrator merely makes innovations on the rules of consultation and engagement with the private sector.[17] Before 1986, the consultation process involved only the government and the private sector represented by the private recruitment agencies, but excluding the workers themselves.[18] Government called on the workers only when problems arose.[19]

Observers say that under the current labor secretary, Leonardo Quisumbing, the consultation process has become even less coherent, in many cases much like a *sari-sari* store where too many people are involved for the discussions to lead anywhere. Moreover, such an approach to decision-making does not succeed in getting to the bottom of issues. Most of the time, consultations were called as a reaction to the problems confronting the program such as the growing number of cases of illegal recruitment or contract substitution.[20] Rarely have these consultations mapped out strategies or anticipate problem areas.

Some from the private sector argue that the policy-making and agenda-setting environment at the Department of Labor and Employment is in a constant

state of change. In the 18 months that followed the hanging in Singapore of Filipina maid Flor Contemplacion, there has been a succession of three labor secretaries. Moreover, the department is seen mainly as adopting a wait-and-see attitude, dealing with situations as they arise and instituting remedial measures rather than taking a sober, long-term perspective of the whole issue.

Others within the POEA and the private sector, on the one hand, see the consultations as a positive development. They want to see greater involvement of as many sectors as possible, especially those from the grassroots. They see this involvement as enhancing both popular empowerment and government accountability.[21]

In the end, however, the result of such involvement leaves much to be desired. The implementation of suggestions from private groups is met by "the usual red tape where the actual response is much delayed." Or, the government simply informs the private sector of the implementation of a new policy or procedure "and that if we oppose then we should file a petition and then afterwards the policy comes out just the same."[22]

At present, the consultation process is intended to make the private sector feel that it is part of decision-making and policy-setting. This was shown during a meeting with the entertainment sector on the minimum age for women deployed abroad as entertainers.[23] No policy, program, or even minute change in the rules and procedures governing the entertainment industry is implemented or modified without the approval of the industry's consultative council.[24] This practice, however, was instituted more to avoid the adverse political repercussions of POEA and DOLE decisions and policies, rather than to arrive at enduring solutions to the problems of entertainers.

Private sector participation in policy-making within the POEA was quantified by one informant as "only about 20 percent."[25] For one thing, there has been no private sector representative appointed to the POEA board since 1990.[26] That year, the POEA board was expanded to include three additional private sector representatives. But since these representatives have not yet been appointed, the POEA board cannot meet because of lack of quorum.[27]

However, while the private sector is dissatisfied with both the extent of its participation and mechanisms of participation themselves, some in the POEA believe that these are sufficient. Although the private sector's role is an advisory one, some POEA officials believe that the recommendations of the private sector representatives should not be disregarded as they often know more about overseas employment than some POEA officials themselves.[28]

The Management Paradigm of the Ramos Government's Overseas Employment Policy

When it came into power in 1986, the Aquino government formulated a national policy agenda that would set it apart from the Marcos regime. In an effort to undo the Marcos legacy, the new administration instituted some popular mechanisms in the decision-making structures at practically every level of government. Numerous consultations and popular meetings were held to help the government

set the agenda for the post-Marcos regime. The initiatives included the selection of a commission to draft a new Constitution.

The practice of involving a cross-section of society, including business, was institutionalized in the POEA as well. In early 1987, a consultation meeting on overseas employment was held. Different sectors and groups discussed the plight of migrants and overseas contract workers. Since then, numerous consultations and workshops have been held initiated either by the POEA, the Department of Foreign Affairs, NGOs or the private sector.

While continuing this tradition of popular consultations, the Ramos administration also premised its actions on an acceptance of overseas employment as a fact of life, rather than merely as an ad hoc response to economic difficulties. As such, the government realized that the overseas employment program required a concrete management strategy. This is evident, for example, in the administration's attempt to propose that labor migration be included in the agenda of the 1995 Asia-Pacific Economic Community (APEC) meeting in Osaka as well as in the passage of RA 8042.[29]

It would thus seem that the Ramos administration sees overseas employment more in the context of increasing globalization, mutual interdependence and economic integration rather than simply as a sign of economic distress. In policy terms, this means that the management of overseas employment is no longer just the POEA's sole responsibility. A more holistic view has emerged. As a result, the democratic consultation process has been expanded, with the involvement of NGOs, POs, other government agencies (e.g., the Departments of Foreign Affairs, Justice, Tourism, etc.) and even local government units, particularly in the areas of information dissemination and the conduct of the campaign against illegal recruitment.[30]

An example would be the hearings of Gancayco Commission formed after the Contemplacion execution. These hearings involved virtually every sector of Philippine society.[31] However, such broad consultations did not result in the adoption of a coherent and lucid view of overseas migration. On the contrary, critics say the process "really provokes confusion, ambiguities and (was) somehow self-contradictory and even lengthy," with a tendency to overemphasize political issues.[32]

Membership in Advisory and Technical Committees

The labor recruitment industry chooses its own representatives to the advisory and technical committees that are formed on an ad hoc basis. The POEA merely asks the associations of recruiters to send a representative and leaves the choice to them. The number of members in each advisory committee is not specified. It can range from five to ten. A representative of the POEA sits in these committees.

The members decide on the frequency of committee meetings, venue, coordination and management as well as the agenda. The bases for the creation of such committees depend primarily on POEA officials' reading of the current problems and situations of migrants. A committee to discuss the issue of recruitment and application procedures at the POEA, for example, may be constituted depending on the extent of the need for such a committee. Informants are not familiar with the current number of ad hoc committees that have been formed thus far. The findings and resolutions of the committees are submitted to the POEA administra-

tor who then endorses them either to the POEA board or to the labor secretary for proper action.

The Key Players and Participants from the Private Sector

Many of those able to participate in and influence the deliberations on policy, standards and procedures come from the major associations of recruiters. To date there are at least 30 such associations listed in the POEA directory. At least five of these are already defunct or are actually associations that exist mainly on paper. These groups cover a wide range of specializations, either in terms of geographic area (the Northern Marianas, Taiwan and South Korea among others)or the type of workers they recruit (e.g. domestic workers, entertainers, seafarers, etc.).

Recruitment associations are generally headed by persons who are themselves actively engaged in the recruitment business. In much the same way, representatives of migrant workers' organizations and NGOs are mainly overseas workers themselves or they come from the Church and the professional NGO community.

Policy Issues Raised

Some informants said that the policy concerns raised in POEA consultations and committees are basically the same issues that have been discussed or brought up in earlier administrations (e.g., wages, placement fees, joint and solitary liability labor standards, illegal recruitment, among others).[33] Moreover, some officials from both the government and private sector feel a sense of exasperation with the way the consultation process has been handled and how self-interests continue to be very pronounced.[34] Those from the maritime industry, for example feel that the consultation process appears to be unusually and unnecessarily protracted.[35]

Representatives of employment agencies feel that no industry is as heavily regulated by government as labor recruitment. Some of them have even described these regulations as "impositions" because they tend to be unrealistic and are therefore more prone to being violated.[36] Some POEA officials acknowledge that the concerns of labor recruiters are now being addressed and that policy decisions are made mainly for political reason.[37]

One example are the provisions on illegal recruitment provided for in RA 8042. Despite the suggestions of recruiters to limit the definition of illegal recruitment activities to only the non-licensed agencies, the law that was passed included all types of recruiters.[38] This meant lumping the licensed and unlicensed agencies together in one category, something which legitimate recruiters find unfair.[39] At the very least, POEA officials felt the private sector ought to have been given a stronger voice and more public hearings should have been held.[40] Legitimate recruiters felt that these hearings could have given them a chance to explain their position and salvage the industry's bad reputation.[41]

The Private Sector and Deregulation

Section 29 of RA 8042 provides for the deregulation of labor recruitment over a five-year period. Such a plan could allow for the gradual phase-out of the regulatory functions of the POEA, making labor migration "a matter between the worker and his foreign employer..." The sentiments of some in the POEA is that,

generally, the private sector fears deregulation "because they feel they will become irrelevant with the provisions of RA 8042."[42]

For the government, deregulation simply means the streamlining of the regulatory functions of the Administration. It is also seen as "improving the role of the Administration in education, information dissemination and negotiation rather than paper processing, auditing and accounting."[43] Eventually, if RA 8042 is followed, the transactions governing overseas employment will become "a matter between the worker and his foreign employer.[44]

At any rate, deregulation can be considered a success when it is accompanied by a policy of full disclosure of the conditions, salaries, etc. that workers are expected to receive. Both the private sector and the Administration appear to have arrived at a consensus in this regard.[45]

There is the view that the current activities and programs of the POEA serve more to "inconvenience" rather than facilitate the management of labor migration flows. "Much of the operations in the POEA perpetuate a system of client-dependence on its rules, regulations, requirements, pace, projects and level of resources." The POEA has been identified by an impressions survey on the civil service as one of "the ten topnotchers in red tape."[46]

A Critique of POEA Policy Management

The existing agenda-setting mechanism and process within the POEA can be generally described as one that allows for greater sectoral participation at the lower levels of policy management i.e., the formulation and implementation of overseas employment policies and procedures. Previously, under Marcos, the technocratic and exclusive approach to decision-making was problematic. The outcomes of such an approach were, not surprisingly, problematic as well.

Given its populist beginnings, the Aquino administration's popular and participatory approach appeared to be the most appropriate mode of decision-making. Such a process of decision-making, however, has its drawbacks. Consultations of this sort, being all-inclusive, make it difficult for decision-makers to arrive at unified and concrete policy options and formulations. At the same time, such consultative practices tend to be more responsive (or reactive) to external conditions and problems and less anticipatory (or proactive). This in effect reinforces the palliative, ambivalent and ad hoc nature of the country's overseas employment policy.

Some Tentative Conclusions

As can be seen in the above discussions, there are several major intervention mechanisms open to, and adopted by, private recruitment agencies in order to bring about policy changes in the POEA. The most formal of these is representation in the governing board, the highest policy-setting body within the Administration. Prior to 1995, the Board was made up of only three members: the DOLE Secretary, the POEA Administrator and a private sector representative. Between 1990 and 1995, however, the third position has been vacant. In spite of this, the

board was still able to meet as there was always a quorum between the administrator and the secretary.

With RA 8042, however, the number of board members increased to six. In addition to the private sector representative (presumed to be someone speaking for the private recruitment agencies), workers' representatives were to be named. However, the board has so far been unable to meet because the new sectoral seats and that of the private sector position have yet to be filled up.

On another less formal but concrete level, private recruitment agencies can also influence the decision-making process in the POEA through the ad hoc advisory and technical committees. Policy changes were instituted, albeit gradually, through the decisions of consultative committees and working groups composed of so-called experts in the field, notably the recruiters and brokers engaged in a particular business activity.

Although they are of an advisory nature, these working groups and committees can have a big say in policy outcomes despite the general impression among private-sector informants that the proposals of recruitment agencies and the private sector in general were not seriously considered in order to appease the demands of the NGOs and the workers' sector.

Lastly, there are the multisectoral consultative meetings that are held depending on the urgency of the issues being raised. The last multi-sectoral meeting initiated by the POEA was on the entertainment industry in June 1996. Thus, the overall decision-making mode adopted by the POEA is a consensus-building one where a number of sectoral representatives are accommodated and their views and positions on specific issues are taken into account.

The consensus meeting held between the POEA and the entertainment industry group, for example, resulted in an agreement that the minimum age of entertainment workers being deployed abroad should be lowered from 23 to 21. However, the discussions and debates that take place in these meetings often reflect earlier discussions and exchanges conducted by the concerned sectors (e.g., the workers groups, Church and other non-government organizations and the different recruitment agency associations).[47]

The decisions arrived at in these informal ad hoc consultations are sent directly to the administrator who either endorses it to the labor secretary or through the governing board. In the absence of a quorum in the board, the administrator acts upon the recommendations by issuing an administrative order.

Under Marcos, the general idea was to respond to overseas employment policy on an ad hoc basis, as labor migration was seen merely as a palliative to numerous economic and social concerns. Under Aquino, participatory decision-making mechanisms were instituted as a reaction to Marcos's authoritarian regime. Under Ramos, the democratic mode continued.

It is significant to note that the labor recruitment sector is not homogenous. Indeed, it is made up of divergent interests. This may explain why the perceptions of the private sector do not coincide with the views within the POEA. While some POEA informants indicated that the private sector is very influential in the policy-making process, those from the sector themselves say otherwise. A sector as diverse as the country's private recruitment business is certainly one that is difficult

to satisfy. Moreover, the POEA may find the current mode of involving as many sectors as possible unwieldy and time-consuming.

The interests of private recruitment agencies vary according to the nature of their activities. Seafarers' groups and manning agencies often differ with recruiters of land-based workers in terms of their interests and working/procedural standards. For seafarers, recruitment and processing fees as well as procedures for determining skills qualifications are already specified by international maritime groups such as the International Maritime Organization (IMO) and the International Labor Organization (ILO).

On the other hand, recruiters of land-based workers have other concerns, including their long-standing appeal to increase the government-mandated recruitment fee, lower the age limits for women migrant workers, stronger and more focused campaign against illegal recruiters, etc. In general, the perspectives and positions of recruitment agencies are different from the interests of those of the workers. These differences span a range of labor migration-related issues, including the maximum recruitment fee, penalties for illegal recruitment, the age limit for deployed domestic and entertainment workers, etc. Unfortunately, no concrete mechanisms exist to resolve these differences either within the recruitment agency sector or between the latter and the migrant organizations.

Prerequisites of Successful Consultation

In order to be successful, some POEA officials feel that the agency must ensure that private sector participants are responsible in their work, and that when they become part of the consultation process, they will have a better understanding of the intentions and concerns of government.[48] The POEA also needs a longer perspective. This is difficult given the fact that the POEA is a highly bureaucratized and politicized institution.

In addition, there is a need for a separation of the management of the program into land-based and sea-based sectors. A lot of the problems besetting overseas employment have very little to do with the maritime sector. Representatives of the maritime industry also feel that they are unnecessarily being drawn into these problems.[49]

There is a need for the sectors concerned (notably the different associations of labor recruiters, including the NGOs and migrant organizations) to arrive at a common understanding of the issues and adopt a common position, especially when they are confronted with key policy questions such as deregulation and the regularization of undocumented migrants. The maritime sector has achieved a considerable measure of consensus on these issues and on the approach to the problems.

There is a need to change and challenge the overall orientation of the POEA from a highly regulatory institution to one that offers relevant labor market information in an increasingly globalized world.[50] This is also in line with the diminished regulatory functions of the POEA as outlined in RA 8042. Many in both the POEA and the private sector feel that the deregulation provision in RA 8042 undermines both the mandate of the POEA to manage the labor migration process and the private sector's right to engage in the recruitment and deployment of migrant workers for overseas jobs.

ENDNOTES

1 Maricris Sioson was an entertainment worker who died in Japan under questionable circumstances. Flor Contemplacion was a domestic helper executed in Singapore for the murder of Delia Maga, another Filipina domestic worker in 1994. She was hanged despite appeals and protests from Filipino authorities and the Philippine public. Sarah Balabagan was accused of murdering her Arab employer in the United Arab Emirates in 1994. Defense lawyers argued that she was merely defending herself from a rape attempt by her employer. She was sentenced to death, but the sentence was commuted after appeals from the foreign media and from the Philippine government. Instead, she was made to pay "blood money" to the family of the deceased.

2 In 1994, the POEA issued 154 new licenses for recruitment agencies. The number of agencies in good standing for the same year was 708 or almost a two percent rise from the previous year. Land-based agencies declined by 1.69 percent while the number of manning agencies rose by more than nine percent.

3 See Elena Samonte, et al., *Issues and Concerns of Overseas Filipinos: An Assessment of the Philippine Government's Response* (Diliman: UP Press and the UP Center for Integrative and Development Studies, 1995); and Maruja Asis, "The Overseas Employment Program Policy," Graziano Battistella and Anthony Paganoni, (eds.), *Philippine Labor Migration: Impact and Policy* (Manila: Scalabrini Migration Center, 1992), pp. 68-112.

4 For details, see *GO-NGO Watch*, September 1994 and January-May 1995 and *Salin Lakas*, October 1995 and June 1996.

5 See Samonte, et al.

6 The West Asian region comprising the oil-producing Gulf countries (e.g., Saudi Arabia, Kuwait, Iraq, Libya, among others) became a primary destination at the time because of the their large petrodollar earnings. Enriched by oil revenues, these countries embarked on large infrastructure projects, thus creating a demand for imported labor.

7 Book One, Article 12, Section g.

8 Article 25, PD 442.

9 Book 1, Rule 1, Rules and Regulations Governing Overseas Employment, 1991.

10 Asis, p. 73. Even at the time, the issue of welfare protection had become a major source of tension between the Marcos government and the general public. Fanned by media reports of abuses and exploitation, it became necessary for the government to reexamine its overseas employment program in the context of providing for the well-being and minimum basic rights of migrant workers.

11 See Book 8, Rule 1, Rules and Regulations Governing Overseas Employment, 1991.

12 Section 3, EO 247, Reorganizing the POEA and for Other Purposes, July 24, 1987.

13 Asis, p. 93.

14 Ibid.

15 This is according to the organizational setup formulated in 1990.

16 Based on interview with Atty. Vicente Cabe, OIC, Employment Services Regulation Branch, POEA.

17 Based on interview with Atty. Angeles Wong, Director, Management Services, POEA, July 3, 1996.

18 Based on interviews with Ms. Jesusa Cabreros, Director, Marketing Branch, POEA, July 3, 1996; and Mr. Ricardo Casco, Director, Planning Branch, POEA, July 17, 1996.

19 Based on interview with Ms. Cabreros.

20 Based on interviews with Mr. Casco and representatives of the Filipino Association for Mariners Employment (FAME), July 10, 1996.

21 Based on interviews with Ms. Cabreros and Atty. Mariano Guinto, Vice-President, Philippine Association of Service Exporters, Incorporated (PASEI), July 26, 1996.

22 Based on interview with Atty. Guinto.

23 Based on interview with Ms. Cabreros.

24 Ibid.

25 Based on interview with Atty. Guinto.

26 Based on interview with Mr. Casco.

27 Ibid.

28 Based on interview with Atty. Vicente Cabe, Division Chief, Employment Services Regulation Branch, July 2, 1996.

29 In contrast, the Aquino administration hardly included labor migration issues (or even gender-related concerns) in its medium-term development plan.

30 Based on interviews with Mr. Casco and Atty. Cabe.

31 The Gancayco Commission (The Presidential Fact-Finding and Policy Advisory Commission on the Protection of Overseas Filipinos) was formed by President Ramos on March 20, 1995 in the wake of the controversy caused by the Contemplacion-Maga case cited earlier. The Commission immediately set about conducting sectoral consultations with different groups (labor, employers, recruiters, workers, NGOs, etc.).

32 Based on interviews with Mr. Casco and Atty. Guinto.

33 Ibid.

34 Based on interviews with Ms. Cabreras and Atty. Guinto.

35 Based on interviews with FAME representatives and Atty. Guinto.

36 Ibid.

37 Ibid.

38 Based on interview with Atty. Virginia Calvez, Director, Anti-Illegal Recruitment Branch, POEA, July 3, 1996.

39 The spirit of Section 6 defines recruitment activities as illegal whether undertaken by non-licensed or licensed recruiters.

40 Based on interview with Atty. Gonzalo Duque, Deputy Administrator for Employment and Welfare, POEA, July 3, 1996.

41 Based on interview with Atty. Guinto.

42 Based on interview with Mr. Casco.

43 Based on interview with Mr. Casco.

44. Section 29.

45 Based on interviews with Mr. Casco and Atty. Guinto.

46 Ricardo Casco, *Reengineering the POEA?*, unpublished and undated, p. 6.

47 In the Consultative Meeting on the Entertainment Industry held in July 1995, informants indicated that the decision to lower the age limit for entertainment workers from 23 to 21 was the result of discussions held prior to the consultation between the groups and sectors involved (e.g., recruiters, promotors, NGOs and Church groups, among others). Not much is known about these individual consultations and exchanges because the discussions held were not open and readily accessible to the researcher.

48 Based on interview with Ms. Cabreros.

49 Based on interviews with FAME representatives.

50 See Casco, p. 10.

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Ms. Jesusa Cabreros, Director, Marketing Branch, POEA

Atty. Virginia Calvez, Director, Anti-Illegal Recruitment Branch, POEA

Mr. Ricardo Casco, Director, Planning Branch, POEA

Atty. Gonzalo Duque, Deputy Administrator for Employment and Welfare, POEA

Atty. Mariano Guinto, Vice President, Philippine Association of Service Exporters, Inc. (PASEI)

Atty. Angeles Wong, Director, Managemant Services, POEA

Mr. Vicente Aldanese, Jr. and Michael Estaniel, Filipino Association for Mariners Employment (FAME)

Table 1 Annual Outflow of Contract Workets (1976–1992, in 000)

Year	1976	1977	1978	1979	1980	1981	1982	1983	1984
Total	47.8	70.4	88.2	137.3	214.6	266.2	214.3	434.2	351.0

Year	1985	1986	1987	1988	1989	1990	1991	1992
Total	372.8	378.2	449.3	471.0	458.6	446.1	615.0	686.5

Source: Compilations by the Scalabrini Migration Center; ILO Country Reports

Table 2 Proportion of Government and Private Recruitment (1975–1989 in percent)

Year	1975	1976	1977	1978	1979	1980	1981	1982
Gov't	48.4	27.4	27.6	26.7	19.2	9.1	4.9	2.0
Private	51.6	72.6	72.4	73.3	80.8	90.9	95.1	98.0

Year	1983	1984	1985	1986	1987	1988	1989	1990
Gov't.	2.5	3.7	6.4	4.5	5.4	6.8	9.1	6.6
Private	97.5	96.3	93.6	95.5	94.6	93.2	90.9	93.4

Source: Policies and Planning Branch, POEA

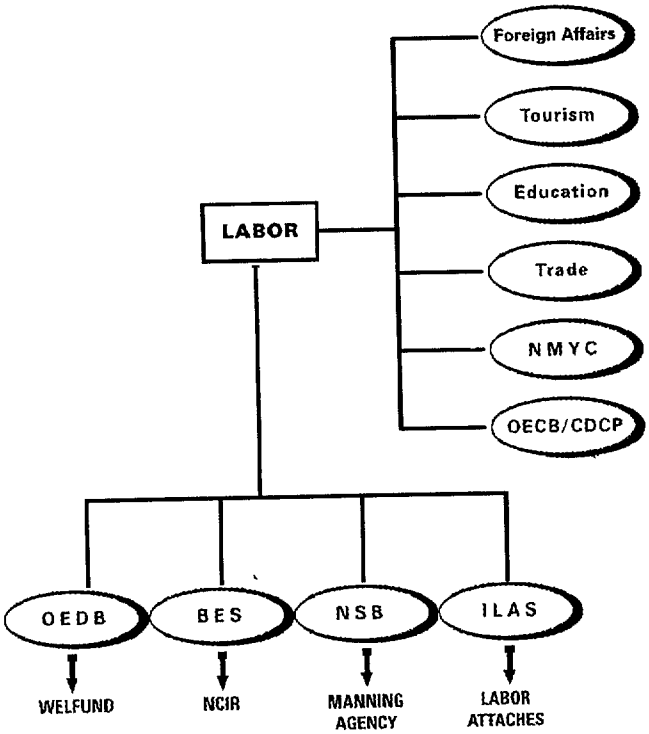


Figure 1 Schematic Presentation of Institutional Structures of the Overseas Employment Program (1973–1982)

WELFUND - Welfare Fund for Overseas Workers
NCIR - National Committee on Illegal Recruitment
OECB - Overseas Employment Construction Board
CDCP - Construction and Development Corporation of the Philippines

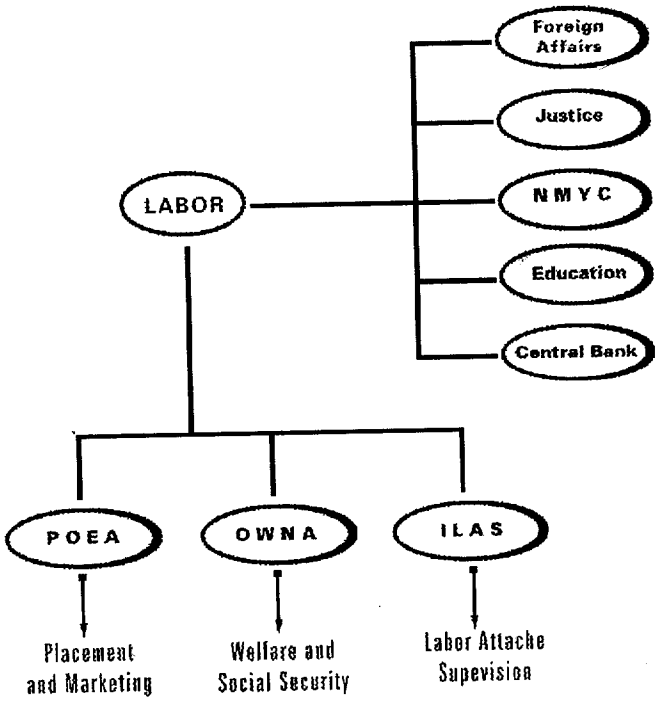
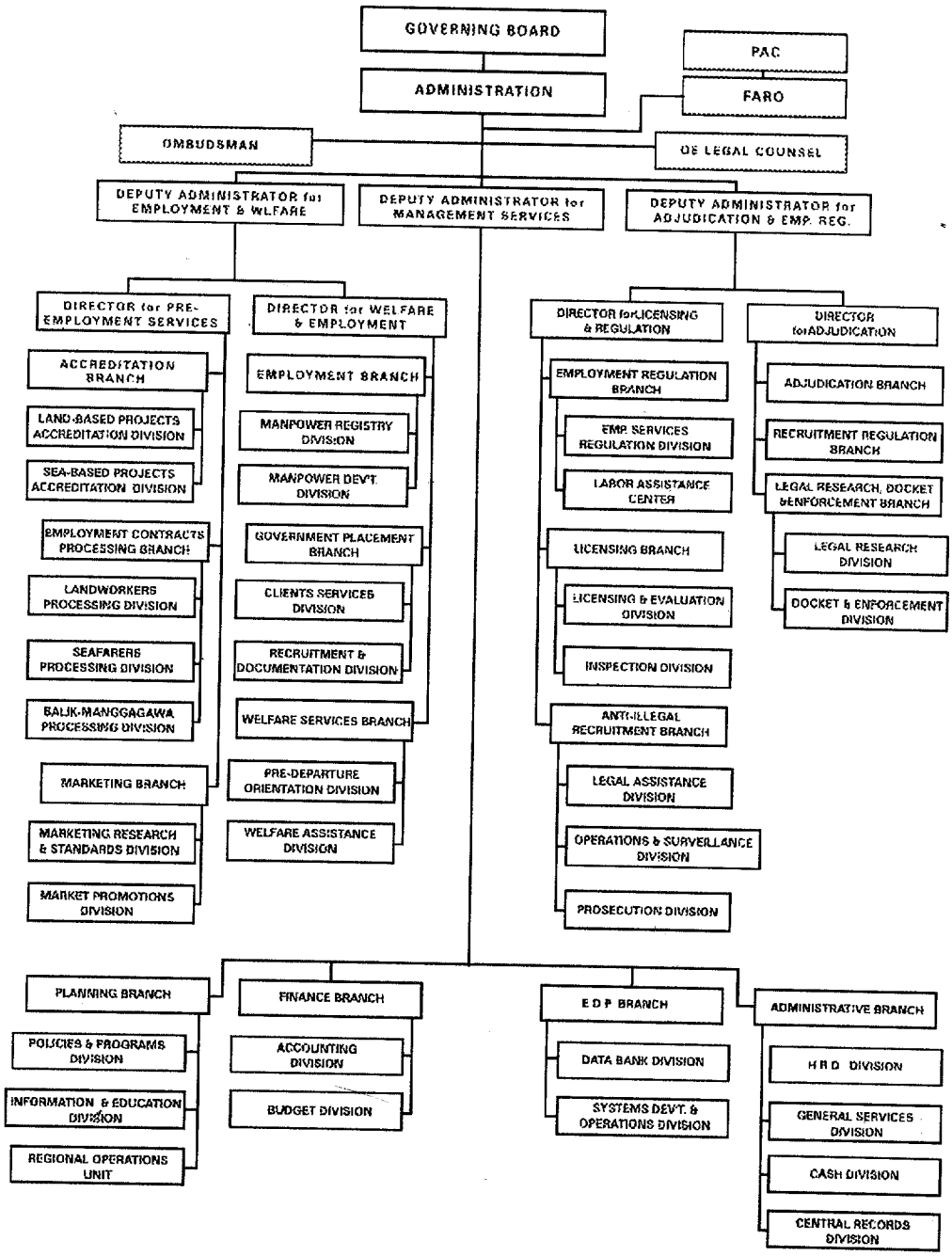


Figure 2 Schematic Presentation of Institutional Structures of the Overseas Employment Program (1982-Present)

Based on current program.

Figure 3 POEA Organizational Structure



MAY-AN C. VILLALBA

MIGRANT WORKERS

Protecting Migrant Workers Rights
Government-NGO Conflict and Cooperation

The Significance of Migration in the Philippines

Maricris Sioson, a Filipina entertainer, was found dead and mutilated in Japan on September 14, 1991. No one was ever prosecuted for her brutal murder.

Flor Contemplacion was a Filipina domestic helper in Singapore who was hanged in 1995 by the Singapore government, despite appeals for clemency from all quarters, including the international community. The Singapore government had accused Contemplacion of murdering Delia Maga, another Filipina maid, and Maga's young Singaporean ward.

Sarah Balabagan, a Filipina domestic helper in the United Arab Emirates, was sentenced to death in 1996 for killing the man who tried to rape her. With the help of NGOs in the Philippines country and overseas which pressured the Philippine government to take a more active role in her defense, Sarah narrowly escaped Contemplacion's fate.

The deaths of overseas Filipino workers (OFWs) [1] continue to be reported in various parts of the world. Everyday, an average of two dead OFWs arrive at the Ninoy Aquino International Airport.[2]

The deaths of the likes of Flor Contemplacion have dramatized the sorry plight of millions of OFWs around the world and pushed the government to ratify the 1990 United Nations International Convention for the Protection of the Rights of All Migrant Workers and Members of their Families and to enact the Migrant Workers and Overseas Filipino Act in 1995. And yet since then, more Filipino OFWs continue to be victimized. The government seems resigned to this fact; the secretary of the Department of Foreign Affairs (DFA) was once overheard to have said, "There will always be a Flor Contemplacion."[3]

The Significance of Migration

Filipino migrant workers are called the country's new heroes. But exactly how many heroes there are, nobody is quite sure. Culling from various sources, the "Filipino Women Migrants: A Statistical Factbook" (1996) estimated that OFWs total some six million. This figure includes 2.45 million overseas contract workers

(OCWs), 1.76 million emigrants and 1.79 million undocumented workers.[4] Government spokespersons , however, have placed the number at about four million.[5]

Independent studies such as that done by Philip Martin estimate 3.18 million Filipino migrants deployed all over the world in the early 1990s. This is broken down as follows: 1.4 million emigrants mainly to the U.S., Canada and Australia; a stock figure of 1.2 million OCWs, of whom two-thirds are deployed in the Middle East while the rest are dispersed in Asia, Europe, Africa and the Americas; 230,000 seamen; and 350,000 undocumented workers in Sabah and in Japan, Korea and Taiwan.[6]

The number of legitimate OCWs is placed at around one million. Presuming that each migrant worker supports a family of six, then about six million Filipinos or ten percent of the 1995 population can be presumed to be receiving support from migrant labor.

If the higher figure of six million is used, then a far larger portion of the population is directly supported by the incomes earned from migrant work. This does not take into account those indirectly supported by overseas work through the payment of fees and other revenues generated by the labor recruitment industry and other establishments that service migrant workers. Among these are government agencies like the Philippine Overseas Employment Administration, the Overseas Workers Welfare Administration and the labor staff of the DFA, private labor recruitment agencies, banks, airlines, travel agencies, etc.

The country's employed labor force in January 1994 was reported by the National Statistics Office to b e 17.531 million.[8] Using this figure, we can calculate that the percentage of migrant workers to the total employed labor force in 1994 is about six percent, if the one-million figure for overseas workers is used. The proportion increases to 34 percent — or about one in three employed Filipinos — if the higher figure of six million is used.

Whatever the case, it can be said that the "national" economy has become increasingly dependent on income from overseas, and that in many ways, it rests on the frail shoulders of migrant workers. Indeed, the amount of OFW remittances — US$4.7 billion in 1995[9] — shows the extent to which the Philippines is indebted to the labor of its citizens abroad.

Historical Overview of Filipino Migration

Overseas migration has been a work option for many Filipinos since the beginning of this century. Migration was the response to economic difficulties of specific sectors of the population, particularly those living in land-scarce areas like the Ilocos region. It was also a result of a "colonial mentality" that deemed the earning of dollars in America a highly desirable and socially rewarding activity.[10]

By the 1960s, "the brain drain" or the flow of Filipino professionals to developed countries was causing alarm. It was felt that the country was losing its most skilled and needed workers — doctors, nurses and educators — who were migrating in waves to the United States, Canada and Europe.

By the time of the Middle East oil boom in the early 1970s, the government had begun to enunciate a "temporary" policy to export labor. The policy had a dual purpose: to alleviate unemployment and to earn precious foreign exchange. The

temporary labor export policy, however, later became permanent, prompting some to quip that Filipino workers are now the "Philippines' prime meat export."[11]

Today Filipino migrants include sea-based contract workers and land-based workers — such as construction workers, domestic helpers, entertainers, manufacturing and service workers — as well as businessmen, scholars, mail-order brides, political and economic refugees, immigrants and undocumented workers in 137 countries all over the world.[12]

Filipino labor migration is said to be one of the largest and most significant of any single state in the world.[13] Both the International Labor Organization (ILO) and the International Organization of Migration (IOM) estimate the number of migrants to be 100 million all over the world.[14]

There are two policy frameworks involved in the treatment of foreigners who intend to work in labor-importing countries. The first involves policies and guidelines on immigration, which include matters of citizenship, conditions of stay, and the right to enjoy social benefits. The second involves labor policies. When a legitimate foreign contract worker is involved in a legal dispute involving a citizen or entity of the host state, then another department, usually the justice ministry, is involved. An undocumented foreign worker, on the other hand, has no recourse to the country's justice system. The stay of an undocumented worker is simply a matter for immigration police to settle.[15]

Most countries impose harsh and restrictive immigration policies on foreigners who join their labor force. However, most countries usually distinguish between two types of foreigners who intend to work. The first type are foreigners who are sought for jobs with high social status, such as entrepreneurs and business experts, academic experts, medical doctors, technical staff with expertise, etc., which the local labor pool cannot provide for the time being. Host countries are usually friendly with these types of workers. States usually provide them with some citizenship rights and sometimes offer them permanent residency and political rights.

The second type are foreigners who perform low-status work which societies also need. These are the entertainers, domestic helpers, and workers in services, construction, manufacturing and the like. Foreigners in these jobs are usually more numerous and are seen to compete with local workers for jobs which involve very little skill or knowledge and are not of a special nature. State policies with regard to these workers are highly restrictive, partly to assuage local workers and partly to prevent foreign workers from demanding more benefits. Such workers are not allowed to acquire permanent residency. In some states, such as Singapore, Malaysia and Taiwan, certain foreign workers are not allowed to have romantic relationships with local citizens as these would open up the possibility of marriage and permanent residency in the host country.

It is in this sense that NGOs refer to host governments' "dualistic policy" with regard to foreign workers. Such a policy regime violates basic and internationally recognized human and labor rights. Some government policies, like those in Japan and Korea, are so restrictive that they end up encouraging the surreptitious entry of workers under intentionally ambiguous categories like "trainees," "tourists" or "students." Such a policy encourages foreign workers unable to legitimize their stay in a foreign country to become undocumented workers.

The labor laws of the host country usually define the rights of workers, which would include the right to organization, wages, working conditions, occupational safety, accident insurance, social benefits, etc. These also define the duties of employers and of the state with regard to the foreign worker.

Labor laws usually apply only to citizens and legally contracted workers. They do not apply to undocumented migrants. But even contract workers are often given special conditions of work which are spelled out in the temporary work contract. The key to limiting state accountability to foreigners is limiting their length of stay, so that they will not become permanent residents, and would not be eligible for other benefits provided by law.

Many host governments' policies on migrant workers were formed in response to a shortage of workers for managerial jobs in the late 1970s and 80s. The policy was mainly directed toward enhancing the labor participation rate of the local population. In order to release their women from the homes so they could be employed, the Hong Kong government formalized the entry of domestic helpers by issuing the Standard Employment Contract for Foreign Domestic Helpers in 1975. Taiwan enacted the New Employment Service Law in 1992 to formally allow the entry of 17 categories of foreign workers, including domestic helpers and nursing aides for the elderly and the disabled.

In other countries, labor shortages continued to grow, especially in the construction, manufacturing and fishery sectors, and particularly in Malaysia, the plantation sector. In response to growing protectionism and often, also union opposition, host governments began cautious labor-import policies for construction, manufacturing and services like hotel and restaurant work.

Under the law, foreign workers who have valid contracts are generally allowed to avail themselves of free, basic medical services. All other needs and benefits are provided for by employers and these are stipulated in the work contract. The policies of certain labor- importing countries are briefly described below.

Malaysia. With one to two million migrant workers, Malaysia probably has the largest migrant labor force in Asia. Foreign workers in Malaysia, mostly undocumented Indonesians, are in the construction sector. Bangladeshis make up the majority of the plantation workers. For household work, mostly Filipino and Indonesian women are hired.

The Malaysian government provides for procedures for recruitment and lays a heavy burden on the employer to take care of the various needs of migrant workers, including hospitalization and social security benefits.[16]

Singapore. In 1990, the Singapore government said that 321,700 migrant laborers were working in the country and make up 31 percent of the labor force.

That year, a liberal policy toward migrants was enunciated, with Malaysians allowed to enter the country to work. The law, however, stipulated that Malaysian workers cannot comprise more than ten percent of the work force.

The dualistic policy is evident in Singapore. Legally employed migrant workers are entitled to the protection of the same laws as local workers. They are allowed to join unions. Permanent residency is offered to professional migrant workers who have stayed for a definite period.[17]

Unskilled foreign workers are not allowed to settle in Singapore or to bring their families with them. Marriage to Singaporeans does not give migrant workers automatic rights of residence.

Japan. Japan's immigration policy has always been xenophobic and racist. The earliest migrants to Japan were really conscripts from Korea, Taiwan and China which Japan colonized before the beginning of the 20th century.

Manifesting its xenophobia, the Japanese government has never granted citizenship to these conscripts, nor to the generations that followed them — up until now. The 1.2 million aliens in Japan include about 800,000 Koreans who are permanent alien residents.

Since 1967, the basic immigration policy of Japan was to deny entry to unskilled foreign workers. This has been in constant tension with the needs of the Japanese economy. In the 1980s, foreign workers began to come in to do the "3D" (dirty, dangerous and difficult) jobs, mainly in small and medium-sized companies in need of cheap labor. At the same time, foreign entertainment workers began to arrive to make up for the loss of cheap local entertainment services. The trade in entertainers was largely controlled by the Yakuza, which found the trafficking of women more profitable than drug trafficking.[18]

In 1990, a revised immigration law imposed increased penalties for illegal labor traders. At the same time, the law began allowing unskilled workers to come in as "trainees" for short periods. It also allowed the acquisition of resident visas for persons of Japanese ancestry who had lived overseas and allowed them to come to Japan to work as unskilled workers. This policy was virtually an admission of the acute labor shortage burdening the economy. This shortage was a result of economic and demographic changes and the changing attitude of the Japanese to certain "low-status" work.

In 1992, the Ministry of Welfare issued a directive that foreigners who were not permanent residents should not be provided with health services under the national health insurance system. This measure was intended to discourage undocumented workers. Medical practitioners, however, protested against the order, and some local governments defied it.[19]

South Korea. The immigration policy of South Korea is essentially as restrictive as Japan's. The labor shortage in South Korea began to be felt in the late 1980s and early 1990s. Most acutely hit was the manufacturing sector, as the economy was being restructured and workers were shifting to services. In 1990, a survey of the Ministry of Labor showed that of ten jobs available in the manufacturing sector, only eight workers were found.[20]

Current immigration law gives work visas only to journalists, technical experts, business people, and education, research and entertainment personnel. The law bans the entry of unskilled foreign labor.

There is no consensus in the government about the politically sensitive matter of labor importation. The Ministry of Trade and Industry and the Ministry of Energy and Resources agree with business claims that foreign workers should be imported in order to ease the labor shortage. On the other hand, the Ministry of Labor and the Ministry of Justice oppose labor imports.

The basic policy on migrant workers was formalized on November 1, 1991 when Article 12 of the Korean Immigration Law was amended with the incorporation of the "Foreign Industrial Trainee System."

Furthermore, effective March 1, 1995, the 258th Labor Regulation was enacted. This is a measure that protects and sets the means to manage "foreign industrial trainees."

According to Alicia Santos, Philippine labor attaché in Seoul, OFWs now enter Korea under the "Alien Industrial Technical Program" which is part of the "technology transfer" scheme. Under this scheme, OFWs are allowed to enter the country as "trainees" with valid, renewable one-year visas.[21]

The scheme, managed by on-site management offices of manpower agencies aligned with the Korea Federation of Small Businesses (KFSB), has allowed 10,000 OFWs to be "trained" in the last three years.

Yet, a survey conducted by the Korean Labor Institute shows that the majority of migrants are undocumented[22] and entered Korea with tourist visas. The survey also showed that tourists were readily provided jobs by local recruiters when their tourist visas lapsed.

One of the reasons for the persistence of illegal work is that legal trainees receive lower wages at US$360 per month, while undocumented workers may receive US$800 to $1,000 per month.

The government has arrested undocumented workers and overstaying tourists, but on each occasion, they were granted amnesty and allowed to continue working. What this probably indicates is that the hard-line policy may not make much economic sense, but remains in force because of political expediency.

Taiwan. Taiwanese government officials acknowledge the existence of a labor shortage caused by the transformation of the economy since 1986 from export-based manufacturing to more sophisticated, high-technology enterprises . They also cited the need for more labor importation.[23]

The government has said it will not interfere with the demands of business for imported labor. It will let the market decide how many migrant workers are needed at any given time.

The official policy is to extend the protection of local labor laws to legitimate migrant workers. Undocumented workers, on the other hand, are arrested and deported, but also allowed to process their applications in their own countries. But even undocumented workers are to be covered by the employment service law. Undocumented workers who have been maltreated are allowed to file complaints and to make claims.

Various estimates place the figure of migrant workers in Taiwan at a high of 200,000 (according to the Catholic Bishops Conference) or as low as 48,000 (according to the police). A news report states that the present quota for migrant workers is 300,000.[24]

The liberal attitude of the Taiwan government toward migrant workers is causing local workers to complain that migrants are posing unfair competition. Migrants are willing to receive 30 percent less than what the local workers earn.

The Gulf States. The Gulf states of the Middle East stand out because they provide no protection for the rights of migrant workers. These workers do not figure either in the immigration policy or in the labor code. Domestic workers in the Middle East do not have recourse to any legal procedures for redress of legitimate grievances. All negotiations with work contracts are done with individual sponsors or employers.

The Middle East is made up of several diverse states which are predominantly monarchical. Because of ethnic diversity, confusion about colonially imposed borders, and elitist politics, it has been difficult to inculcate the concepts of nation and citizenship in these countries.[25]

No state in the Gulf has allowed its citizens the full exercise of civil and political rights. It is in this context that the rights of migrant workers should be seen.

Official 1992 statistics show that the total number of migrant workers in the Gulf States was 7,075,851. Migrant populations outnumbered local citizens in most states, with the UAE — where migrants comprise 85 percent of the work force — being the most dependent on foreign labor.[26]

The legal framework for migrant workers is non-existent in most cases. In Kuwait, the labor law provides for a grievance system in which workers may appeal their cases to the Ministry of Social Affairs and Labor. However, domestic helpers are excluded from this protection. Workers have no right to organize unions nor power to bargain for better employment terms.

In general, migrant workers in the Gulf are allowed few privileges and are often regarded as potential security threats. Very few foreign workers are protected by bilateral agreements between host and sending governments. Most are given only two-year work contracts for specific jobs. Workers may change jobs only if their current employer agrees. Workers are obliged to return home once their contracts expire; most have to wait a year or two to obtain new contracts.

General Issues and Problems

Structural issues

A structural issue[27] faced by migrant workers, particularly those in low-status jobs is their vulnerability to gross exploitation and abuse. Such vulnerability is inherent in the nature of their jobs, which are considered low-skilled, slave-like, cheap and dispensable. This is particularly true of two major job types: those in

domestic service and the sex industry. These jobs are gender-specific, and they expose women to great risks. To some extent, those in construction and manufacturing may also be considered vulnerable because they are cheap and dispensable, but they are not deemed quite as low nor as slavish as the labor of domestic helpers and sex workers.

Secondly, ethnocentrism and nationalism are on the rise in many of the host countries. In many countries in Asia and the Middle East, religion and nationalism have become strong ideological forces. In Europe, the collapse of socialism and the massive migration of Eastern Europeans to the West have caused a protectionist backlash against migrant labor in Europe's more open societies.

A third structural problem is the weak bargaining position of a Third World state like the Philippines. Poor and vulnerable countries do not have much leverage in negotiating with host countries for the fair treatment of workers.

Related to this is the position of the migrant worker relative to a work contract. The migrant is the weaker party in every work contract. OFWs are dependent on their employers or sponsors for their work visas and status. They are also dependent on employers for their livelihood. Furthermore, employers have a unilateral advantage in work contract termination clauses. Under restrictive policy regimes, migrant workers will normally not initiate termination of a contract because that automatically means returning home without a job. Furthermore, work contracts have very short duration, and this forces the worker to accept onerous terms in order to recoup expenses incurred in the recruitment process. These disadvantages are structural and difficult to change.

Rights Issues

The international community recognizes certain inalienable rights. These rights are enshrined in international instruments and covenants which are recognized, endorsed and ratified by respective states and later integrated into national laws to be binding and effective. The problem of migrant workers is that a number of host countries have not ratified many of these international covenants.

The International Labor Organization, a special agency of the United Nations, has also made conventions and recommendations to protect migrant workers' rights.[28] These conventions and recommendations provide for basic rights to migrant workers, including the right to work; to equal working conditions; to safe and healthy working and living conditions; equal pay for equal work; overtime pay; the right to be a member of an association or union; the right to enjoy social security; the right against being tortured and receiving inhuman treatment; the human right against slavery and servitude.

Pre-employment Issues

While governments may be excused for their inability to deal with the structural issues and rights of migrant workers, they cannot escape responsibility for pre-employment issues such as the victimization of migrant workers due to exorbitant recruitment fees; illegal recruitment; illegal work contracts; lack of information about overseas work conditions; lack of on-site services and re-entry programs; poverty and unemployment; loss of skills of an educated work force and others.

These problems are in the realm of government policy. So many OFWs could be saved from the risks of working under illegal conditions if the government would simply tighten its job placement screening process.

Inadequate Services for OFWs

A staff person of the DFA who handles the affairs of migrant workers overseas is reported to have made the statement that the DFA work force of 250 is unable to handle the protection of four million Filipino migrant workers overseas.[29]

This translates into less than two Filipino government representatives in each of the 137 countries where OFWs are located. Put another way, each diplomatic official in charge of overseas workers must take care of 16,000 Filipino migrants.

The function of foreign service posts in 137 countries where Filipino OFWs are found are: protection of citizens abroad; granting of citizenship; facilitation of travel documents; registration of nationals living abroad; and rendering of notarial legal services to its own nationals, and other individuals or corporations. They must also collect taxes from their citizens. In some states, the payment of taxes is made a prerequisite for the issuance of a Philippine passport.

Philippine consulates and embassies are supposed to protect their compatriots who may be arrested for real or imagined crimes; see to their health and well being; repatriate deceased citizens and inform relatives of their deaths; and give their compatriots a sense that their welfare is being looked after. These are the minimum services diplomatic staff should provide its citizens overseas.

How successfully has the government performed this role? In 1995, an estimated 671 OFWs returned to Philippines dead.[30] Moreover, NGOs have monitored the cases of up to 40,971 OFWs who were known to have suffered various mishaps during their overseas stay. These cases included: non-payment of wages, rape, maltreatment, war evacuation, death, insanity and detention. The growing list of OFW casualties reflects the real warlike situation in which OFWs fight their battles.[31]

The Role of the Philippine Government in the Protection of OFWs

Since its introduction during the Marcos era, the primary thrust of the government's overseas employment program has been the development of the job market. Interviews with the staff of Philippine embassies in several countries show that this thrust remains of paramount importance.

Through the years, the role of embassy personnel has primarily been to protect and expand the labor market for Filipinos. This means that they must lobby labor-receiving governments to accept Filipino migrants and to issue work permits to migrant workers who had entered under visas that do not allow them to be employed in those countries.[32]

The following government agencies are involved in the overseas employment program:

The Department of Foreign Affairs (DFA) is the government agency responsible for providing protection and assistance to citizens abroad. In particular, the Office for International Labor Affairs responds to migrant workers' needs.

The Department of Labor and Employment (DOLE) has two agencies involved in the welfare of migrant workers. These are the Philippine Overseas Employment Administration (POEA) and the Overseas Workers Welfare Administration (OWWA).

The POEA registers and administers recruitment agencies, maintains a registry of skills for overseas placements, recruits Filipino workers, develops the overseas job market, and tries to secure the best terms for OFWs as well as promote and protect their welfare.[33]

The Overseas Workers Welfare Administration

Reorganized by the Aquino government in 1987, OWWA's two mandates are to provide welfare assistance to registered overseas workers and their dependents and to manage the OWWA Fund, which is raised from the compulsory contributions made by foreign employers of overseas Filipino workers.

The services provided by OWWA are categorized in the following way: (a) economic benefits, including the promotion of livelihood programs, Kabuhayan 2000 and loan packages; (b) security and protection, including the repatriation of workers and the provision of legal assistance and insurance and health care benefits; (c) psychological and social support; (d) skills and career development; (e) integrated support services.[34]

OWWA runs 22 Filipino Development Workers Centers (FWDC) in 18 countries.[35] These centers provide refuge to crisis-stricken OFWs, counseling services, and a venue for community enhancement. But these centers service only 13 percent of the countries where overseas Filipinos work. In addition, as one center has to serve thousands of workers, it cannot provide that much assistance.

Thus, there are questions whether OWWA money should be spent on these centers. If they can only render minimal service, which some private groups are already doing, should not scarce resources be used for other services, such as a communication network that enables the government to advise OFWs where they can get assistance?

A critical problem is that there are no provisions for undocumented migrants. As OWWA Administrator Wilhelm Soriano writes, "OWWA encounters minimal welfare problems among legally deployed OFWs, but sadly experiences the exact opposite among illegally-deployed OFWS."[36] Indeed, undocumented workers are the most vulnerable migrants and the most in need of help. They are the ones who need government help the most. Although they represent at most only one-sixteenth of all Filipino migrants, they are the most vulnerable to abuse and exploitation.

Assessment of Services in South Korea

South Korea provides a good gauge of the government's effectiveness in dealing with the problems of migrant workers. Santos, the Philippine labor attaché in Seoul, said in an interview[37] that the Philippine Overseas Labor Office's (POLO) main thrust is to lobby with the Korean labor and justice ministries to legalize the stay of thousands of undocumented OFWs by issuing work permits to them. The Philippine government estimates that there are 20,000 OFWs in Korea, 67 percent of whom are undocumented workers.

The Philippine embassy in Seoul has six persons working full-time to assist OFWs. These include two OWWA personnel, the labor attaché and her assistant, another assistant who was hired locally, and a translator. This staff is too small to deal with such a big Filipino migrant population.

The labor attaché already has her hands full convincing the labor ministry to integrate and consolidate certification programs, certifying OFW skills on "technology transfer" and ensuring that Filipino workers are eligible for employment in Korea and elsewhere.

POLO also has to lobby with KFSB so it would allow more Filipino "trainees" into the country. It is also involved in training and technology transfer programs. In addition, the program encourages migrant workers to enroll in the Kabuhayan 2000 project. So far, it has trained overseas workers in computer technology, food technology, entrepreneurship and public relations.

POLO is also involved in welfare and counseling. Every month, some 25 Filipinos complain that have not been paid their wages. Other problems include illnesses and industrial and vehicular accidents. POLO helps workers claim compensation from the Korea Labor Welfare Corporation.

If the accidents are not work-related and therefore not subject to compensation, POLO requests hospitals to reduce bills. It also tries to get donations from churches, NGOs and other Filipinos. It seeks the help of the Seoul Bar Association to facilitate claims by migrant workers. Especially acute are the legal needs of imprisoned OFWs.

Given the potentially large demand for services, POLO has to build support networks and to mobilize resources among OFWs themselves. OWWA is also recruiting undocumented workers to enable them to receive benefits, including disability insurance and scholarships for their children.

Services in Japan

The Philippine government has an embassy and an OWWA office in Tokyo and a consulate in Kobe to take care of hundreds of thousands of OFWs, who are mostly undocumented. Through POLO, the labor attaché and OWWA provide services such as financial assistance for the repatriation of undocumented workers who have fallen ill or who have been imprisoned. They also take care of the repatriation of deceased OFWs.

POLO also provides counseling, emergency housing and legal assistance to needy workers, mainly entertainers, and to Filipino women married to Japanese men.

The DFA is responsible for processing travel documents and affidavits, marriage certificates, work contract authentication, collecting payment of documentary stamps and other fees. According to respondents to a questionnaire sent by the author, the Philippine government's main problem with regard to providing services is the lack of staff. Moreover, some embassy staff are often unresponsive to the problems of undocumented workers. Many times, the help extended to them is not sufficient.

Government service, respondents said, consists mainly of processing travel documents. It is also the impression of those seeking help that the government would rather not get involved in court litigation. NGOs say that embassy officials would rather pass on to private groups the task of monitoring errant businesses and recruiters victimizing OFWs.

The Role of Migrant Workers NGOs in Protecting Workers' Rights

Migrant workers NGOs were set up by Christian churches and labor unions in various Asian countries in response to the growing stream of migrant workers who were suffering from unjust job terminations, abuse, and psychological problems.

In Hong Kong, one of the first migrant worker NGOs formed was the Mission for Filipino Migrant Workers (MFMW), which was set up in 1980. Initially supported by the Christian Conference of Asia Urban Rural Mission and the National Council of Churches, it grew out of the mission work of a few Christian activists.

Eliseo Tellez Jr., the first director of the MFMW recounted that because most Filipino maids were Christians, they normally gathered in church on Sundays. The churches were to them a friendly sanctuary where they could form Bible study groups and organize other social activities.

The MFMW eventually grew to include a Refuge House for women migrant workers in distress. This was the first refuge of its kind in Hong Kong and probably in Asia as well. MFMW was able to organize and coalesce several Filipino migrant worker organizations which were active in lobbying both the Hong Kong and Philippine governments for a better deal for migrant workers.

There are currently over a hundred migrant worker NGOs in Asia serving Filipinos. These include mission and apostolate groups from Protestant and Catholic churches and councils of churches; trade union and labor rights centers; regional NGOs with migrant worker desks; coalition of organizations made up of host citizens providing various services to migrant workers; independent Filipino migrant worker people's organizations; trade unions; organizations of legal practitioners; and Asian migrant worker organizations.

These are located in all major destinations of migrant Filipinos: Japan, South Korea, Taiwan, Hong Kong, Macau, Singapore, Malaysia, Australia and New Zealand, and even some countries in the Middle East.

In addition, there are several Philippine-based migrant worker NGOs which serve departing and returning Filipinos. These groups have linkages with similar organizations in host countries. Filipino NGOs also relate with non-Filipino mi-

grant worker NGOs which support mainly other nationalities but also on occasion help Filipino migrant workers. These are located in sending country locations such as Thailand, Indonesia, etc.

A few examples of the most active host country NGOs which serve Filipino and migrant workers from other nationalities are:

Hong Kong. The Asian Migrant Center (AMC) was established in 1989 to provide services to Asian migrants in different Asian countries. In Hong Kong, the work of the AMC was to provide counseling and crisis intervention to mostly non-Filipino migrant workers, mainly Indonesians, Malaysians, Thais, Sri Lankans, Bangladeshis, Nepalis and Indians. It collected information about migrant workers in Asia and organized consultations among migrant worker NGOs in Asia to strengthen cooperation. It was also instrumental in the initial work of the Asian Domestic Workers Union which included various nationalities, including Filipinos.

The AMC was most successful in public advocacy. Through the use of Hong Kong and international media, the grievances of migrant workers were brought to public awareness.

Japan. Since 1994, two separate alliances of migrant worker advocates have been formed in Japan. These are the Christian Coalition for Immigrant and Migrant Workers and the Citizens Coalition for Migrants and Refugees. Composed of over a hundred groups, these coalitions provide various services to distressed migrant workers, including counseling, legal services, refuge houses and even transport back to their countries. They also raise public awareness about overseas workers and lobby in the Diet for more legal protection for migrants.

Among those involved in migrant issues is the House for Emergency Love and Peace (HELP) based at the Japan Temperance Union, which assists workers in distress. HELP has a refuge house where migrant workers can stay while their cases are being studied and resolved.

Migrant worker NGOs in Japan are engaged in lobbying for the review of restrictive immigration policies, especially those involving the right to residence of Filipino women married to Japanese nationals. They also do advocacy on behalf of migrant workers who have been abused or exploited by their employers. Moreover, they work for the fair treatment of foreign nationals and for better conditions of migrants in detention centers.

In addition, these groups assist in getting the government to provide medical care for migrant workers. They help victims of domestic violence and those who experience problems in their marriages with Japanese citizens. They also lobby for the right of migrants to have the custody of their children.

South Korea. As in Japan, groups involved in migrant workers' rights in Korea coalesced in 1994. The Joint Migrant Committee in Korea, made up of a few dozen NGOs, was established by the independent trade union center. It is composed of trade unions, churches and other action groups which provide various services to migrant workers. The group is fighting for the official recognition of

migrants and their right to be members of trade unions. They are also involved in educating the public about the real situation of migrant workers in a country where many citizens oppose giving benefits to foreign workers.

The Presbyterian Church of the Republic of Korea, the Presbyterian Church in Korea (PCK) and the Methodist Church of Korea also have nationally coordinated programs for migrant workers needs. The Catholic Church in Korea has special programs for migrant workers in all of its major dioceses and local churches. It holds masses in Tagalog, provides counseling and medical assistance, and conducts consultations with Korean immigration, labor and police agencies.

Taiwan. There are less than a dozen groups involved in migrant issues in Taiwan. Most of them are run by Catholic and Presbyterian churches which have been active in migrant worker issues for several years. The Catholic Church supports Caritas-Taiwan, the Commission for Social Development (CSD), and the Migrant Workers Desk. The Hope Workers Center is part of the Caritas network, which also includes parish-based programs for migrants. It looks after crisis-stricken migrant workers of all nationalities, many of whom are undocumented workers. Hope Workers Center serves mainly migrant workers in manufacturing and domestic service. On occasion, it also assists workers in the entertainment industry.

The Fishermen's Service Center of the Presbyterian Church in Taiwan helps migrant workers in the deep-sea fishing industry.

Malaysia. Tenaganita, a group that organizes women workers in plantations and electronics factories, has recently begun assisting migrant workers in one of Asia's largest labor-importing countries. It exposed in the media the abuses committed by the Malaysian police against immigrant workers in detention centers in Kuala Lumpur. As a result, the director of the NGO was arrested and tried in court for violation of the Publications Act. Other groups that help migrants are the Office for Human Development of the Catholic Church which organizes programs and services in parishes.

Philippine NGOs

In the Philippines, NGOs have done a great deal of advocacy work and defense of migrant workers' rights. Long before the Philippine government set up Filipino Workers Development Centers, NGOs were already operating refuge houses for migrant workers. They have also mobilized citizens in host countries to support the concerns of Filipino migrant workers.

The Batis Center is an example of the kind of work NGOs have done. Established in 1988, it has been at the forefront of the struggle to expose the brutalities committed against Filipina entertainers in Japan and to defend the rights of children born of Filipino and Japanese parents.

The Center convened the Philippine-Japan Legislators Conference on Migration in Manila in 1994 in an effort to get legislators, representatives from government agencies and NGOs from both the Philippines and Japan to work together for the protection of Filipina migrant workers in Japan and their children.

Initially, Batis' main work was assisting entertainers who had problems with their employers, including non-payment or underpayment of wages and being forced to go out with customers and to perform work outside their contract provisions. Later, Batis was involved in the documentation of workers whose tourist or entertainment visas had expired.

In 1992, Batis started a program to protect children of Japanese-Filipino marriages. Effectively using the media, it was able to bring to public attention the problems of these children, most of whom had been abandoned and received no support from their Japanese fathers. As a result, citizens' support groups were formed in Japan to look for the fathers of these children. These groups were also involved in providing legal defense and financial assistance to the children and in lobby work with the Japanese government.

Batis's other efforts involved following up the mysterious deaths of several OFWs in Japan and arranging for the return of their bodies to the Philippines. It also helped to expose the connivance of some Philippine embassy personnel with Japanese club owners who were exploiting Filipina entertainers. The issue was eventually investigated by the Philippine Congress.

Batis and other NGOs also collaborate with the government by serving as trainers or resource speakers in seminars for diplomatic staff and by assisting in the safe return to the Philippines of abused migrants.

Batis's work shows that NGOs play a key role in advocacy and providing services for abused and exploited overseas workers. In fact, it can be argued that in these two areas, NGOs take the lead, with government playing only a secondary or supporting role.

The Interaction between Government and NGOs

In the course of regular interaction, non-government organizations inevitably form some sort of relationship with Philippine government personnel and missions overseas. Usually, the interactions take place when NGOs intervene in OFW cases where government action is needed. Most of the time, such intervention has to do with the migrant worker's travel documents. But there are different forms of contact between NGOs and the Philippine government:

(a) When NGOs seek the assistance of the Philippine embassy or consulate on behalf of a migrant worker who is in need; such contact may be done face to face or by phone, letter or fax;

(b) When the Philippine government issues invitations for NGO personnel to attend official functions such as Independence Day or Christmas Day ceremonies;

(c) When the Philippine government invites representatives of NGOs and POs (migrant organizations) to meetings in which the government wishes to announce and explain a new policy or directive affecting migrant workers;

(d) When a third party, like a host country government, invites both Philippine government and NGO personnel to discussions of common concerns (For example, the District Office of the Hong Kong government called government and NGO representatives to discuss the plan to close the Statue Square to migrant workers on Sundays.);

(e) When the Philippine government needs the assistance of NGOs.

The interaction between government and NGOs may be friendly and cooperative, cordial and cautious. But it can at times also be confrontational and antagonistic.

On a day-to-day basis, government agencies and NGOs carry on with their respective work with little interaction with, or interference from, each other. Counseling and crisis-intervention, for example, is conducted by NGOs relatively independently, except when government action is needed. For the most part, relations between government and NGOs are cordial. It is the OFWs and the migrant organizations that are in constant need of government services.

NGOs have come into conflict with government when they lobby against government policies that they believe are detrimental to OFWs. An example is Executive Order 857, which requires OFWs to remit their earnings through banks.[38] In general, NGOs view the government as unresponsive to the needs of OFWs. This unresponsiveness results from a lack of government resources and capacity to deliver effective services and also, on occasion, the oversensitivity of government to the public airing of grievances against officials or agencies.

Government Attitude toward NGOs and Migrant POs

From the perspective of NGOs and OFWs, the government relates to them in different ways:

(1) It is a common perception that the government perceives itself as "having authority over" OFWs and, to a lesser degree, migrant NGOs. This is especially true when it comes to policies and laws which government agencies expect OFWs and NGOs to comply with.

(2) Government attitude to NGOs is determined by what officials think the NGOs and POs represent. Government agencies try to cultivate good and positive relationships with large, influential and institutionalized NGOs such as religious or church-based NGOs. Examples of these are Caritas in Taiwan and the National Bishops Conferences. The Philippine government took very seriously a letter endorsed by the Catholic Bishops Conference of Taiwan, which asked the Philippine labor secretary to do away with private recruitment agencies. Instead, the letter suggested that workers should be hired directly from Taiwan to prevent the abuses of recruitment firms. Largely through the efforts of the Catholic Church of Taiwan, a memorandum of agreement between the Philippine and Taiwanese governments on the hiring of migrant workers is under discussion.

Some NGOs organized by businessmen, such as the Bayanihan Trust in Hong Kong, have been avidly pursued by government agencies that want its support. Bayanihan Trust facilitates training programs, counseling and other services for OFWs.

(3) Government attitudes vary according to the experiences of individual government officials or personnel. Government representatives receive warmly those NGOs that understand the government's limitations and are sympathetic to government positions on migrant worker issues. Some NGOs that respond to government needs and requests are particularly valued. Examples are Caritas

(Taiwan), Protestant and Catholic church-sponsored programs (Korea) and Bayanihan Trust (Hong Kong).

On the other hand, government personnel do not take too kindly to NGOs which are critical of the limited resources of government and which see this lack as a manifestation of the government's lack of concern for OFWs. These NGOs are often small. Some are church-related and provide valuable assistance to OFWs. Other NGOs are linked with local labor centers and unions and are often critical of the Philippine government's labor- export policy. Relationships can be unfriendly and downright hostile between government and these types of NGOs.

Most government personnel have a grudging respect for NGOs, even for those they consider hostile, because NGOs are seen to provide valuable services like crisis intervention and the setting up of sanctuaries for OFWs. In most countries in Asia, the government in fact makes use of NGO resources, referring cases to them, and seeking their financial assistance on behalf of OFWs.

At the same time, government personnel often view some NGOs with suspicion. This is because some groups are known to express themselves in mass actions and in the media. Often, they expose government abuses and official neglect of migrant workers' concerns. Some government agencies and officials believe that these NGOs are politically motivated and that their actuations are harmful to government credibility and functions.

Some government personnel have persuaded NGOs and migrant POs to refrain from "excessive" criticism of the government for fear that its credibility would be damaged. On the other hand, other government personnel (in an unofficial, often personal capacity) have encouraged NGOs to raise their issues in the media in order to compel the Philippine government to provide more resources that will enable embassy staff to respond more competently to the problems of migrants. This is particularly true in the cases where OFWs die under mysterious or suspicious circumstances. Moreover, there are also some embassy staffers, particularly in Middle East countries, who advise OFWs in distress to use "unconventional" methods because legal procedures and remedies are non-existent.

The general view of NGOs is that the government attitude to overseas workers and migrants' organizations is patronizing. Government views overseas workers simply as beneficiaries, clients and recipients of government services.

Attitude of NGOs and Migrant Groups to the Government

The general attitude of NGOs and migrants organizations[39] to government missions overseas is one of frustration. This attitude arises mainly from the obvious and acknowledged lack of government personnel and financial resources to respond to a broad range of migrant workers' issues. In general, government responses in terms of "normal" services such as the issuance and validation of travel documents are appreciated. In addition, government recognition of the work done by NGOs and migrant POs is coveted. Beyond these, it seems to migrant groups that there is very little else that government can do about the pernicious problems

of migrant workers. For example, government personnel are reluctant to assist OFWs who are "undocumented" or those who have criminal charges. Not only are they considered an embarrassment to the Philippines, there are few resources (human and monetary) that can be harnessed to protect them.

It is generally felt that the government's orientation toward the expansion of labor markets overseas often runs counter to the need to defend the rights of OFWs. On the whole, government entities are perceived as wanting above all to maintain a good relationship with the host government. In their defense of workers' rights, they are often seen as more concerned with avoiding the risk of diplomatic conflict. This is precisely what happened in the case of Flor Contemplacion.

OFWs who are in crisis and who are not adequately assisted by the government are the most critical. They are the ones who have turned cynical and radically oppositionist. On the other hand, the majority of overseas workers who experience no problems could not care less about government.

On the whole, despite their frustration, NGOs and migrant POs often seek to develop a cooperative and friendly relationship with government for the migrant workers' sake. Some NGOs, however, have become cynical about the government's unresponsiveness and limit their relations with officials to the barest minimum.

Summary

The diversity of migrant POs and NGOs, the types of issues they raise, and the avenues of intervention they use allow them to complement each other's work and be mutually supportive of each other's efforts. Some NGOs are more adept in the use of the more formal methods of intervention, e.g., representations in executive bodies, joining government delegations for official visits and conferences, regular use of the procedures for the redress of grievances. These NGOs persist in these efforts, convinced that they will have immediate impact as well as contribute to reforms. On the other hand, NGOs wary of working with government and fearful of co-optation are wont to take the informal avenues of interaction, e.g., mass actions, use of the media, networking with other groups, etc.

One area where OFWs can make their voices is heard through elections. There are proposals to allow overseas Filipinos to vote, and this is a way in which they can influence government. Because OFWs are geographically distant and dispersed, they can also be outside the influence of traditional patronage politics.

A vibrant relationship between government and NGOs is in the interest of migrant workers and must therefore be promoted. Despite attitudes of mutual hostility and a history of intermittent confrontation between them, areas of cooperation can be established.

Possibilities for Cooperation

Most migrant NGOs see themselves essentially as defenders of the rights of migrant workers. As such, they must be independent of governments. Indeed, governments have been guilty of treating migrant workers merely as factors of production — commodities that can be traded in the "free" and "open" labor mar-

ket. NGOs therefore think that to be dependent on, and embrace, governments would be contrary to their reason for being.

This is not to say, however, that NGOs must always be confrontational with governments. There are certainly many areas in which government and NGOs should work together. For example, the Philippine government has proposed to set up a consular office outside Kuala Lumpur in Malaysia to take care of large numbers of OFWs in Penang and Kota Kinabalu. NGOs and POs working with migrant Filipinos have supported this plan.

In South Korea, it would be beneficial for NGOs to come to agreement with the Philippine government on how the rights of migrant workers ought to be incorporated in current attempts to revise the Korean Labor Standard Law.

The cooperation between government and NGOs should be encouraged if it is beneficial to the long-term interest of OFWs. But the NGOs should always maintain independence from government.

Proposals

Solutions to the problems of migrant workers require an integrated approach that can mobilize disparate forces. The roots of the problems of labor migration are in the Philippines as well as in the international arena, wherever migrant workers are working or seeking work. The efforts should therefore address the problems both in the Philippines and abroad. It is beyond the scope of this report to propose solutions to the basic problems of poverty and unemployment which are the main push factors for overseas migration. The following proposals are geared toward organizing an international response to the problem, specifically an international NGO response.

International Legal Instruments

(a) UN Convention of Migrants

The problems of international refugees, displaced persons and migrant workers have been recognized by the international community for a long time. Some successful attempts have been made to define international legal frameworks for addressing these problems. While these instruments may take decades to operationalize and enforce, they must not be dismissed as inconsequential.

One of the most useful for migrant workers is the United Nations International Convention for the Protection of the Rights of All Migrant Workers and Members of their Families. Passed by the UN General Assembly on December 18, 1990, the convention protects the fundamental rights of migrant workers and their families, whether they are documented (legal) or undocumented (illegal).[40]

So far, only six countries, including the Philippines, have ratified this convention and four others have signed it. The convention needs to be ratified by 20 countries before it comes into force.

At present, the convention can neither compel countries to legitimize the existence of migrant workers nor to place them under equal or similar provisions of the law which protect local workers.

It is essential that the critical mass of 20 ratifying countries be reached in order for it to have binding force on signatory countries. Many countries refuse to sign the document even if they themselves are labor-exporting countries because of reciprocity clauses that compel them to protect foreign workers.

The Philippine government should initiate and pursue the ratification of the UN convention for on it depends the welfare of millions of its citizens overseas.

(b) Toward an Asian governmental mechanism for migrant workers rights

Realistically, the ratification of the UN Convention may take a long time. Meanwhile, the government must use other available fora to air its concern for migrant workers' rights. It can begin doing so in Asia.

The Philippines is a member of ASEAN, APEC and other regional, governmental and economic fora and associations. It must actively pursue the agenda of migrant workers' rights in these fora in order to establish bilateral and multilateral agreements to protect local and migrant workers. Philippine government efforts in South Korea are noteworthy. The Philippine government must raise the agenda of labor trade and the protection of migrant workers' rights as aggressively as it is pursuing its agenda of trade and foreign investments. After all, annual OFW remittances are as large as, if not larger than, export incomes or new foreign investment flows.

The government must also encourage the organization of trade unions among migrant workers and their integration into national host country trade union federations which protect labor rights. This must be achieved bilaterally or regionally by initiating or by actively participating in ministerial conferences of the ILO on labor and migrant labor rights.

(c) Protection of migrant workers' rights

The most fundamental step in the protection of migrant workers' rights must be taken while the workers are still in the Philippines. By efficiently screening overseas job-seekers and weeding out fake work contracts, the government prevents the wholesale victimization of its citizens. The conditions of OFWs and the credibility of the Philippines as a whole would be tremendously improved by banning Filipinos from entering highly degrading and vulnerable work, such as those in the sex industry and domestic service. The government's labor-export policy should be tempered by ethical considerations. It is the government's moral duty to limit the exposure, especially of young women, to jobs where they are highly vulnerable to abuse.

What this entails is the efficient rooting out of illegal recruiters. This could be complemented by educating migrant workers about the hazards of overseas work. Furthermore, it is government's duty to provide sincere and efficient diplomatic and consular support to its citizens.

Many NGOs observe that government personnel assigned overseas to handle various needs of OFWs are too few and often not professionally and linguistically competent to perform their functions. The NGOs often ask these questions: what kind of training do government personnel undergo before they are assigned to overseas assignments? How familiar are they with the language and culture of the

host country? How familiar are they with their laws? Do OWWA officers have any legal, psychological and social work background? Why are they perceived as sexist, arrogant, unfriendly and unsympathetic by many crisis-stricken OFWs?

The Philippine government needs to assess the qualifications of its people. A sincere, competent and serious diplomatic staff will go a long way in convincing NGOs and migrant POs to work hand-in-hand with government in serving OFWs.

(d) Aid in the re-entry of migrant workers

Finally, given the structural nature of the problems of overseas work, government must strive to help workers return to the Philippines by providing them meaningful livelihood projects if not potential jobs in their homeland.

The OWWA programs for re-entry, the livelihood and entrepreneurship programs, should be strengthened and made more efficient. In the host country, the government should encourage and promote savings associations among migrant workers. A migrant savings movement is a good alternative to the country's dependence on foreign investments and foreign loans. At home, the government should encourage viable local cooperative enterprises which migrant workers may support from overseas.

The government can provide a policy regime that makes it easier for migrants who have had entrepreneurship training overseas to obtain soft loans from banks and other financial institutions. By encouraging the savings movement and by providing banking services, the government will be able to tap potential investment from its own people. As this alternative investment program gains viability, then the government may begin to believe that the economic salvation of Filipinos lies in themselves.[41]

ENDNOTES

1 The new term Overseas Filipino Workers (OFWS) refers to all Filipino migrants whether documented or undocumented, with valid work contracts (OCWs) or not, settlers or immigrants, asylum seekers, mail-order brides or professionals. The term was first used in the Magna Carta of Migrant Workers passed by Congress in 1995. OFW is therefore a more inclusive term whereas the term OCW refers only to migrant workers with valid and temporary work visas.

2 Nena Gajudo, "Local Front," *Trends, News and Tidbits (T.N.T.)*, March 1996, p. 19. The OWWA recorded 1,012 deaths among OFWs in 1995 or an average of 2.7 cadavers per day.

3 Nena Gajudo, "What Now for Labor Migration," *T.N.T.*, March 1996, p. 3.

4 Quoted from *Filipino Women Migrant Workers: A Statistical Factbook*, printed by NCRFW/ADB in the Philippines in 1996. After the passage of the Magna Carta of Migrant Workers in 1995, the term Overseas Filipino Workers became the designation for all categories including the overseas contract workers (OCW), emigrants or permanent settlers as well as undocumented or illegal workers.

5 Gajudo, p. 3.

6 Philip Martin, "Migration and Trade: The Case of the Philippines," *Asian Migrant*, Vol. 6 No. 2, June 1993, p. 60.

7 Gordon L. Crovitz, "Overview," *Far Eastern Economic Review Yearbook*, 1996.

8 From the *1994 Employment Situation in the Philippines*, Special Release No. 794, National Statistics Office, Manila, April 1994.

9 *T.N.T.*, March 1996.

10 Olivia Cervantes, "Dare the Sick Man of Asia Hope with Philippines 2000?," *Batis Newsletter*, Vol. 5. No. 1, June 1994, p. 24.

11 Senator Wigberto E Tañada, Keynote Address, Philippine-Japan Legislators Conference on Migration, November 3–6, 1994, Manila, Philippines.

12 Cervantes, p. 24.

13 Martin, p. 60.

14 "Who is a Migrant?," *Manual on Refugees, Displaced and Migrants* (Lebanon: The Middle East Council of Churches, undated), p. 16.

15 Interview with Immigration Official of Hong Kong, March 15, 1994.

16 *Asian Migrant Forum*, June 1994, p. 11.

17 *Asian Migrant Forum*, June 1994, p. 38.

18 Interview with Yayori Matsui of the Asahi Shimbun.

19 "Migrant Workers in Japan," *Asian Migrant*, June 1993.

20 *Asian Migrant Forum*, March 1993, p. 17.

21 Interview with Alicia Santos, September 1, 1996.

22 This fact was corroborated by Alicia Santos, Philippine labor attaché to South Korea in an interview with the author, who figured that about 67 percent of OFWs in South Korea in 1996 were "illegals."

23 Interview by Jorge Tigno with James Lee of Ministry of Foreign Affairs of Taiwan. Published in *Asian Migrant*, 1994, p. 69.

24 This was reported in *China News* (Taiwan), July 6, 1995.

25 Aline Papazian, *Situation of Migrants in the Middle East Region*, Report prepared for the International Migrant Rights Watch Committee meeting, Cairo, Egypt, September 1994, p. 1.

26 Ibid., p. 3.

27 A structural issue is defined here as a problem that is intrinsic to the structure of a system or relationship, which would then require broad legal and cultural measures to resolve.

28 The list of conventions and their summary provisions are found in an ILO document entitled "The Rights of Migrant Workers and Labor Laws." It was circulated in cyclostyle form during the Second Training Seminar for Asian Labor Attaches in July 9, 1993.

29 Gajudo, "What Now for Labor Migration," p. 3.

30 Gajudo, "Local Front," p.19.

31 *TNT*, 1996, p. 19.

32 Interview with labor attaché Alicia Santos in Seoul, Korea, September 1, 1996.

33 *Philippine Overseas Employment Administration (POEA) Annual Report*, 1992.

34 *Overseas Workers Welfare Administration (OWWA) Primer*, 1994.

35 *OWWA Primer*, 1995.

36 Soriano's statement in the *OWWA Primer* of 1995.

37 Interview with Santos, September 1, 1996.

38 Executive Order 857 provided, among others, for mandatory remittance of OFW earnings through banking channels only. OFWs who refuse to comply would not be allowed to renew their passports. The series of protest actions staged and the petition letters circulated by NGOs and POs prompted the government to rescind the punitive provisions of the executive order.

39 There are a variety of migrant people's organizations (POs) overseas. There are trade unions such as the Asian Domestic Workers Unions in Hong Kong, church fellowships, regional (ethno-linguistic) groupings, e.g., Ilocano, Tagalog, Bisayan groups, and coalitions of migrant POs.

40 "Who is a Migrant?," *Manual on Refugees, Displaced and Migrants*, p. 17.

41 Interviews by the author with POEA personnel here and overseas revealed contradictory views. On the one hand, there were some who claimed that there were adequate legislative provisions, policies, and mechanisms that address the need for economic reintegration of OFWS. "No less than the President has declared the policy to bring home the Filipino workers, to which Kabuhayan 2000 sa Pagbabalik ng Pinoy, an inter-agency reintegration program was initiated." Other provisions include the Migrant Workers Act (Sections 17-19 under Article III on Services, the Comprehensive Employment Strategy program), section on Overseas Employment, Objective no. 3, pp. 34-35, September 1995. "However, between the spirit of the law and the reality of implementation lay uncharted areas which when left unresolved, become an obstacle to the attainment of the very objectives envisioned in the enactment of said law."

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Government-Civil Society Dynamics in the Implementation of CARL in Negros Occidental

VIOLETA LOPEZ GONZAGA

The achievement of the provincial Department of Agrarian Reform (DAR) in Negros Occidental under President Aquino was remarkable compared to what the Marcos government had done under Presidential Decree No. 27 (on land reform). Nonetheless the total number of hectares distributed was way below target. Hence, in order to bring back to life a moribund program, the local government and NGOs collaborated to form the Quick Action Team in 1990, later transformed into the Provincial CARP Implementing Team (PCIT). The aim was to identify the problems stalling the program and fast-track the land transfers.

The fast-track approach of the Negros PCIT resulted in a significant increase in land distribution. The effective interface of PCIT with the provincial media helped drum up support for the program from several sectors, including, notably, the landowners. Also, the Institute of Social Research and Development actively conducted researches about problems besetting the Comprehensive Agrarian Reform Law which were submitted to the concerned government agencies for proper action. The unequivocal support given by former Governor Daniel Lacson to PCIT, particularly to private sector participation, greatly contributed to the relative success of the program in the province.

The administration of DAR Sec. Ernesto Garilao has been marked by more decisive moves. Tapping his nationwide NGO-PO network, Garilao, through regular consultations and provincial forays, obtained the support of strategic key sector groups, particularly the progressive NGOs and POs. One of the innovations was the creation of task forces which have aggressively mobilized the local DAR, POs/NGOs and potential beneficiaries of the program. In Negros Occidental, the Task Force Sugarlandia, for example, has successfully mobilized NGOs and POs to identify large sugarcane land holdings for CARL coverage.

However, certain problems persist that derail or slow down the full implementation of the CARL, such as the processing of documents for land transfer and the payment of landowners. Here is where civil society can still make further inroads toward genuine agrarian reform.

The Impact of the Business Sector on the Comprehensive Tax Reform Package

ERIC GUTIERREZ

In February 1996, Malacañang submitted the Comprehensive Tax Reform Package (CTRP) or House Bill 6060 to Congress for enactment. The bill sought to introduce reforms in four key areas of the tax system: individual income tax, corporate income tax, excise taxation and tax administration. The CTRP was important for its attempt to "level the playing field" in the payment of taxes, endeavoring to remove the age-old advantages enjoyed by the business and corporate sectors that had allowed them to allegedly evade the payment of billions in taxes. Moreover, it was the closest the country had ever come towards the establishment of a progressive tax regime.

Despite Malacañang's much ballyhooed drive to have the bill passed by Congress, the package in its comprehensive form failed to push through. There were a number of reasons for this failure.

First, the filing of the tax reform bill came late in the life of the Ramos administration. Such timing only served to further politicize an already politically explosive issue. Congressional discussions were also hounded by sheer lack of time. Second, because it addressed the roots of tax evasion and avoidance schemes, the CTRP consolidated the business community into opposing the tax reform measure. Third, and perhaps most telling, there was no political or social base to push for the passage of the bill. Malacañang failed to get the support of the sectors that would benefit most from progressive taxation — ordinary workers, fixed income earners and low-salaried professionals.

While business groups teamed up to oppose the measure, the middle- and low-income earners who bear the brunt of the tax burden were underrepresented in the tax hearings. Only two groups represented them: the Freedom from Debt Coalition (FDC) and the *Kapisanan ng mga Pangulo ng Unyon ng Pilipinas* (KPUP). But in general, the Left and progressive groups were weakened by their fractious campaigns and lobby efforts. Even the most successful coalition, the FDC, failed to consolidate its ranks around tax reform. On their part, Leftist groups preferred to air their position in the streets or in opinion columns where they mattered less, than in the halls of Congress where they could have had more impact.

Finally, the lobby efforts of progressive groups like FDC and KPUP were minuscule compared to

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that of the business groups. All the companies which lobbied on the excise tax issues established full-time lobby offices staffed by senior executives, lawyers and tax consultants. Thus, while cause-oriented groups "exposed and opposed" the measure, business lobbies were wheeling and dealing with allies in Congress.

The Impact of the Intervention by People's Organizations in the DENR Contract Reforestation Program in Negros Oriental

MYRLLE BANTILAN LIBO-ON

The reforestation program in Negros Oriental calls for close interaction between farmers occupying the reforestation sites and non-government organizations which hold the reforestation contracts from the Department of Environment and Natural Resources. The organized community within the reforestation sites became hired laborers for the project, while the NGOs, as reforestation contractors, helped the farmer communities form their own organizations for the purpose of planting and caring for the reforested areas. The NGOs also trained the PO members; provided security, including the establishment of a fire protection zone within the areas; identified the nursery site; and purchased planting materials. Meanwhile, the DENR contracted another set of NGOs to monitor and evaluate the project.

The POs encountered several problems such as a delay in the release of their salaries; irregular visits by NGO contractors; lack of seedlings; infestation of the plants; and disagreements among PO members themselves. To address these problems, the POs conducted dialogues with DENR officials and NGO-contractors. They also discussed how to thresh out their own differences internally.

In spite of their problems, majority of the PO members claimed they were satisfied with the project, citing the additional income as the project's most important contribution. Some felt their participation empowered them to a certain extent because of their involvement in policy formulation and implementation. Others mentioned environmental preservation and better forest management as the project's contribution to the community.

One important yardstick in determining the impact of the POs on the reforestation program was their role in reshaping policies for the succeeding phase of the program. As an offshoot of mounting complaints against the screening process used by NGOs as well as their irregular visits to reforestation sites, the POs were given the chance to choose the NGO-contractors under the second phase of the program.

The DENR proved to be receptive to the needs of the POs. But the POs' assertiveness was also a major factor. Fundamentally, the POs wanted to be recognized as active partners in local resource management. The findings of the study indeed suggest a greater role and influence of civil society groups in policy-making and implementation at this level.

The Non-Passage of the 1993 Proposed Election Code of the Philippines

ALBERTO AGRA

In 1993 the Commission on Elections (COMELEC), then chaired by Christian Monsod, proposed to Congress an election code seeking to institute substantial reforms in the electoral process. KUMARE-KUMPARE, a coalition of 17 national networks and organizations working for electoral reforms, pushed for the passage of the proposed code. Despite their and the COMELEC's efforts, however, the election code was shelved by Congress. Instead, four election-related laws were passed which were considered innocuous by the electoral reformers. Worse, rather than institute radical electoral changes, some of the new laws would even benefit the incumbents.

The paper probes into the dynamics between Congress, on the one hand, and the COMELEC and KUMARE-KUMPARE coalition, on the other. The partnership between the COMELEC, a government body, and KUMARE-KUMPARE, an NGO, is also examined as an interesting example of state-civil society convergence in policy-making.

Several means of intervention were utilized by KUMARE-KUMPARE in its campaign, each directed at various key players: Congress, the President, the general public, and the influential leadership of the Catholic Church. But the coalition failed in its lobby efforts with Congress. Despite the coalition's claim to a large mass membership, national political leaders did not feel their presence. Internal differences also affected the coalition's lobby, with some leaders perceived by others as having their own personal agenda (to gain media and political mileage for future elections, for example). Too, only a handful of known coalition members were active throughout the campaign.

On the part of Congress, it was obvious that most of the legislators were not inclined to change the electoral rules that had helped them get into office. From the start, the proposed code was drafted in full by the COMELEC, with no partici-

pation at all from Congress. As the code was not in the President's list of priorities, NGOs believed the President only paid lip service to the bill's importance. Lastly, unlike other issues (such as urban poor concerns), electoral reform did not get the public support it deserved because its issues did not seem real enough to the people. More basic needs such as socialized housing, land and others were far more pressing, especially because election issues come in episodes while basic needs are constant all year round.

The Impact of the Concerned Citizens of Abra for Good Government on Local Politics

ANICETA BALTAR ▪ MYRNA CAOAGAS

After the 1986 snap presidential elections, the original members of the local chapter of the National Movement for Free Elections put up an organization called the Concerned Citizens of Abra for Good Government (CCAGG). The group generally aims to monitor the performance of government officials and hold seminars on voter's education, poll watching and other aspects of the electoral process.

Two cases tested the CCAGG's commitment. One involved the exposure of an anomaly involving provincial officials of the Department of Public Works and Highways (DPWH). After several months of intensive lobbying, the national DPWH office finally handed down a decision penalizing the erring officials. The other case involved infrastructure projects mishandled by the municipal mayor in Tubo, Abra. Efforts at dialogue at the local level failed. Administrative cases were then filed first before the *Sangguniang Panlalawigan* (Provincial Legislative Council), and later with the office of the Ombudsman in Manila. Impatient with the slow pace of the investigation, the people simply decided not to give the mayor another term when he sought reelection in 1992.

To gauge public perceptions of the performance of the CCAGG, especially its impact on the conduct of elections, a survey was conducted in 27 municipalities of Abra among 104 respondents composed of the following: COMELEC officers, election inspectors, NAMFREL and Votecare volunteers, losing candidates, media, and elected government officials. Most of the respondents expressed a high regard for the CCAGG in working for honest and orderly elections in the province. The respondents also identified the contributions the CCAGG had made by monitoring government projects as follows: stricter and faster implementation of projects based on their plans and specifications; greater public participation in the identification of projects from planning to implementation; and less graft and corruption.

When asked about their recommendations on how to improve the services of the CCAGG, the respondents' overwhelming response was the need for the organization to expand its membership and linkages in order to establish a stronger support base for its advocacy work.

The Role of Civil Society in the Mindanao 2000 Development Plan

ROMULO J. DELA ROSA

In early 1994, the Office of the Presidential Assistant in Mindanao (OPAMIN) commissioned DMJM, an American consultant firm, to draft an economic development plan for Mindanao for the period 1995-2010. Unhappy with DMJM's output, OPAMIN replaced it with the Agricultural Policy Research and Advocacy Program (APRAAP) in U.P. Los Baños.

Both DMJM and later APRAAP held public consultations in the course of making the plan, relying heavily on the views of the business community and local government officials. The consultations conducted by the OPAMIN, in contrast, involved a broader audience in which most, if not all, social and political movements of various ideological tendencies were represented. The social "summits" were held from 1992 to 1996 in various parts of the island and resulted in a number of policy recommendations that addressed the gamut of social development concerns: agrarian reform, food security, urban land reform, rural-industrial development, local market development, and environmental protection.

The Mindanao Plan, however, does not reflect the broad-ranging recommendations raised by civil society participants in the summits. Rather, the influence of business groups, who dominated the DMJM and APRAAP consultations (which were fewer in number), was more evident. This was because of the powerful corporate lobby by the different chambers of commerce and industry in the OPAMIN-initiated consultations. For example, in contrast to the sustainable development framework of civil society groups, the development framework of the Plan bats for global competitiveness and creating external market niches. Within this framework, the agenda of non-government and people's organizations and cooperatives thus seem to have disappeared.

While development perspectives of NGOs are not likely to change relative to the growth-led vision of Mindanao 2000, their meaningful partici-

pation in the consultation process could have helped reconcile less controversial points, substantiate the plan's development component, and strengthen the mechanisms for democratization and accountability. The Mindanao experience shows that many questions surrounding civil society's willingness and ability to engage the state in macro-development planning, as well as the more fundamental appraisal of the goals of engagement, remain largely unanswered.

Tripartite Strategy in the Formulation of the Bondoc Peninsula Strategic Integrated Area Development Plan

REYNALDO F. MONTANO

In May 1994, the provincial government of Quezon asked the Bondoc Development Program to organize and facilitate a tripartite forum involving several government, non-government and people's organizations. The purpose was to formulate a district master plan for the Bondoc peninsula for a period of 30 years from 1996 to 2025. This tripartite partnership resulted in the formulation of the Bondoc Peninsula Strategic Integrated Area Development Plan (BPSIADP).

The BPSIADP was formulated using a participatory and consultative approach, involving local government planners of the Bondoc peninsula municipalities (the Municipal Planning and Development Coordinators), the Provincial Planning and Development Office, local NGOs and POs, provincial agencies and the Bondoc Development Program staff. The regional office of NEDA (region IV) provided the technical assistance and guided the process from the conceptualization to the finalization of the planning document.

The activity entailed intensive field surveys and visitations in the 12 municipalities of Bondoc. These surveys provided the venue for meetings with local officials and community representatives and enabled the technical working group to validate the data gathered from the municipalities.

One issue that was raised regarding the general process of the plan formulation was the perception of some groups that the planning process was top-down rather than collective in its approach. In fact, the original strategy was that planning would start at the barangay level and move upward. The consolidation would thus take place at the municipal level, with the district plan formulated based on inputs from the municipal level. Considering the available resources at hand, long-term barangay planning was not conducted but recommendations from the barangays were considered in the field visitation and data gathering at the municipal level.

With its limited resources, the technical working group encountered difficulties in maximizing the participation of "all" the people of Bondoc. To address this problem, municipal consultations were held. To reinforce the significance of grassroots participation, even the master plans of municipalities (which were independently done by the municipalities) were consolidated in the Bondoc plan.

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