

THE SENATE COMMITTEE
ON
JUSTICE AND HUMAN RIGHTS

REPORT

ON

VIGILANTE
GROUPS

Report of the Senate Committee on Justice and Human Rights on Vigilante Groups

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Preface

Starting February 1987, there have been persistent reports on the proliferation of vigilante groups in many parts of the country. (Some of these reports are listed in Annex A.) Shortly, after Congress had convened, the Senate Committee on Justice and Human Rights began to receive complaints of harassments, threats, intimidations, tortures, disappearances, salvagings, hamlettings, crop burnings and food blockades allegedly committed by vigilante groups. An upsurge of those complaints was noted in October 1987.

The Committee decided to conduct an inquiry into the said reports and complaints as well as the organizations, supervision and control of vigilante groups. It held a series of six public hearings beginning on November 3, 1987 and ending on January 13, 1988. (The names of witnesses who testified at the said hearings are listed in Annex B.)

Senator Wigberto E. Tañada, Chairman, stated the purpose of the hearings in a prefatory statement to the Committee at its initial meeting.

Chairman: This inquiry has been called to look into, among others, the organization, activities, supervision and control of vigilante groups. It is a matter of public knowledge that over the past year, we have seen the proliferation and the rise in the organization of vigilante groups all over the country, which development has been welcomed by some as helping in the promotion of peace and order in their respective communities, and strongly protested and opposed by others. They pointed to some of these vigilante groups as a cause of the continuing violation of human rights. Only last week, the guidelines for civilian volunteer self-defense organizations was signed by the Secretary of National Defense, the Acting Secretary of Local Governments, and the Acting Secretary of the Commission on Human Rights. This early, questions have already been raised regarding these guidelines. To get a full comprehensive picture of the issues raised by this problem, the Committee will invite not only leaders of vigilante groups and officials of the

government tasked to supervise the operation of these groups, but also leaders of non-governmental organizations which have come out openly to speak against the vigilante groups. After the committee will have heard the testimonies of these persons, it is hoped the Committee can recommend the enactment of certain legislations to address the problems resulting from the proliferation of vigilante groups.¹

Introduction

Vigilantism was a frontier phenomenon in the 18th and 19th century America. Today, the closing years of the 20th century, it is a phenomenon in the Philippines. In this country, vigilantism has attracted public attention and has stirred public debate. Conflicting perceptions of the existence and operations of vigilante groups and atrocities reportedly committed by some members make them all the more controversial. (Rene V. Sarmiento, The Legality of Vigilante Groups, Annex C).

In the context of the Philippine experience, vigilante is taken to mean as an organization of armed civilians banded together for purposes of counter-insurgency. Even some religious fanatical and bandit groups are included in this category. The right-wing, anti-communist vigilante groups began surfacing in different parts of the country with the intensification of military operations after the collapse of the peace talks between the government and the National Democratic Front (NDF) in February last year. The war with the Communist Party of the Philippines/New People's Army (CPP/NPA), which has lasted almost a score, has since then taken a turn for the worse. The Armed Forces of the Philippines (AFP), perceived to be carrying out a Presidential "declaration of war" speech at the Philippine Military Academy in that month, intensified its counter-insurgency operations against the CPP/NPA and its supporters.²

Many vigilante groups have become notorious for harassing, torturing and executing civilians. Despite confirmed reports of these unlawful acts, some government and military officials appear favorably disposed to the concept of vigilante groups. President Aquino publicly endorsed Nakasaka as a form of "people's power" and an "effective weapon against Communism." The then Defense Secretary Rafael Ileto admitted his support for the more notorious Alsa Masa. The late Local

Government Secretary Jaime Ferrer had actively campaigned for the organization of these vigilante groups in all parts of the country.

There is a claim that the vigilante groups is a strategy for counter-insurgency using a "low intensity conflict" doctrine. In the study of the historical background of vigilante groups, it may be worthwhile to consider the Report of a US-Philippine Fact-Finding Mission to the Philippines (May 20-30, 1987) on **Right-Wing Vigilantes and US Involvement**, a portion of which is quoted hereunder.

The term Low Intensity Conflict (LIC) is the more recent name of what in Vietnam was called Counter-Insurgency (CI). Since the Vietnam war, the United States has refined and structured the procedures for general applications wherever needed throughout the Third World. In essence, LIC is the method of protecting US interests through the use of surrogate forces obviating the necessity of using US troops to directly fight indigenous peoples struggling for freedom from US domination. Rather than urge social equality, US policy supports, for the benefit of the US financial interests, the total inequities of foreign elitist systems and uses their police and military forces to violently suppress the aspirations of the peoples of the third world countries. LIC/CI employs a comprehensive and all-inclusive strategy for use by all relevant US government entities such as the armed forces, the Agency for International Development, the United States Information Agency and the Central Intelligence Agency. Each element has its own charter and the total program is guided in Washington by a multi-agency task force and in the field by an Embassy-based country team or mission council. Despite well-defined spheres of activity, fierce jurisdictional battles ensue as each segment fights for greater shares of the responsibility and the adoption of its specialty in LIC. (Annex D).

Vigilante Groups

Government prefers to call them "Civilian Volunteer Self-Defense Organizations" (CVSDOs). The vigilantes prefer to call themselves

by a variety of names: **Alsa Masa, Nakasaka, Tadtad, Caca, Kuratong Baleleng**, to cite a few. They are collectively known as "vigilante groups". (*Trend Focus*, Vigilance, not Vigilantes, Annex E).

1. Alsa Masa

Mr. Arnel de Guzman of the Philippine Alliance of Human Rights Advocates (PAHRA), in his testimony before the Committee on November 3, 1987, described the Alsa Masa as "the most popular and considered the forerunner of the different vigilante groups."³ (See also PAHRA, Right-Wing Vigilantes in the Philippines, Annex F).

Lt. Col. Franco Calida, the Commanding Officer and Police Superintendent of Davao City Metropolitan District Command, in his testimony before the Committee on January 13, 1988, described the Alsa Masa as

...an organization of the people after reacting to the several atrocities committed by the members of the New People's Army in Davao City, and their reaction to such atrocities, they formed an organization called Alsa Masa primarily against insurgency, and secondarily, against criminality. It started in the small sitio of Dupangco, Agdao, the stronghold of the New People's Army in Davao City at the time. And after I have called for all these disgruntled former members of the New People's Army to formally surrender to me when I took over the Metrodiscom Commander, and then told them that I will support their cause as long as it is in accordance with law. And the moral support of helping them in organizing this Alsa Masa movement with this, primarily, against communism, we were able to spread the movement, convince other members of the CPP/NPA to join them. And that was the start, sir.

Then later on, when almost all of the barangays of Davao city have organized their Alsa Masa movement which were actually spreading like wild fire then in the city, then they organized into a formal organization by selecting their leaders and recommending to us members of the civilian volunteers that will protect, initially protect, the life and property of their own barangay in

coordination with our military and police detachments. And I have required them that their applications, among the civilian volunteers, it should be confirmed and recommended by the barangay officials. And after screening them properly, weeding out some of those that are, particularly all of those with criminal records, then I further recommend them to authorize them: firstly, to be trained in the Civilian Home Defense activities, duties and functions; and then later on, when they are qualified already, they can bear arms as issued by the Home Defense Forces Group Airborne of the Philippine Army.⁴

When asked by what authority he organized the Alsa Masa and at what point he first got involved with the organization, Calida said that Alsa Masa was a "simultaneous reaction of the people. We did not even start it. The people who were already fed up from the atrocities of the New People's Army started it. And then it is now our duty to coordinate them. The first organization at Barangay Agdao which was then the stronghold of the sparrow operating in Davao City, and when this disgruntled group surrendered to me, then I told them that I will support their cause because they are anti-communists and also, against criminalities. **And so we organized them.** I told them to convince more members coming from the elements of the New People's Army who were their former comrades then because they can identify them."⁵ (For excerpts of testimony of Col. Calida, January 13, 1988, please see Annex G).

Was Alsa Masa effective in driving NPA's out of Davao City? Fr. Walsh answered the question in the negative in his testimony before the Committee on December 22, 1987.

Fr. Jack Walsh, Maryknoll Missionary priest, who came to the Philippines in 1962, labored in Davao Oriental for 17 years and in Davao city for the last eight years, has been assigned by the Archbishop of Davao to work among the industrial laborers in their communities and given the task as Justice and Peace Coordinator for Communications by his religious society. Fr. Walsh firmly contradicted the model-role claim for Davao City Alsa Masa.

Fr. Walsh: I would like to go on record by saying that there are several serious misconceptions regarding the Alsa Masa groups in Davao City which I feel have not

been adequately addressed, and yet these misconceptions are the basis for promoting the so-called Davao model. The first misconception is that the Alsa Masa in Davao City is responsible for driving out the NPA. I want to say very, very clearly acknowledging and contradicting those who have much larger positions than I do, but that misconception is inaccurate. The NPA's, their urban groups, had left Davao City six to eight months before the Alsa Masa even started. If we take the statements of Col. Calida that more or less in June or July 1986 the Alsa Masa began to expand in Davao City, I want to say very clearly that the NPA, by and large, had left Davao City the previous October of 1985.⁶

Fr. Walsh explained why the NPA left Davao City. "Around August of 1985, the NPA groups in southeastern Mindanao, particularly Davao City, became aware of the existence of Deep Penetration Agents (DPAs) planted by military intelligence to work within the NPA ranks. The phenomenon was detected when in armed encounters their comrades were wounded in the back."⁷ (For excerpts of testimony of Fr. Walsh, Dec. 2, 1987, please see Annex H).

2. Other Vigilante Groups

When Alsa Masa came under heavy criticism from various sectors for their reported atrocities, Department of Local Government officials started building up the Nakasaka (Nagkahiusang Katawhan sa Kalinaw) or United People for Peace. Based mainly in Davao del-Sur, its anti-communist and rightist orientation is very much like the Alsa Masa. Many of its members also carry guns even as the government and the military claim that its members are armed only with bolos and native weapons. This project had been endorsed by the government through the late Local Government Secretary Jaime Ferrer.

As of the end of August 1987, the National Documentation Center of the Philippine Alliance of Human Rights Advocates (PAHRA) has recorded a total of 205 major armed right-wing civilian groups including fanatical groups and bandits operating nationwide. Of this, 127 are the right-wing vigilante type, 63 are religious fanatical groups, and 15 are armed bandit groups. This list does not include branch formations of the Alsa Masa and the Nakasaka. Of the 127 major formations of the vigilantes, 53 are found in Mindanao, 41 in the Visayas, 27 in Luzon. This does not tally with the 68 mentioned in Leyte because

of the disparity in dates, and they did not include the formation of the vigilante branches of the Alsa Masa. Metro Manila has at least six groups in existence.⁸

In Manila, a Col. Romeo Maganto admitted to having organized the Manila Crusaders for Peace and Democracy. Western Police District Superintendent Gen. Alfredo Lim bared the organization of Police Community Relations Organization which became vigilante groups.⁹ (For excerpts of testimonies of Col. Maganto and Gen. Lim, Jan. 13, 1988, please see Annex I).

(Lists of vigilante groups in different parts of the country are hereto attached as Annex J.)

Abuses, Excesses and Atrocities of Some Vigilante Groups

Testimonies and statements were given to the Committee about abuses, excesses and atrocities committed by some vigilante groups and members. The following are a few of the many reported:

1. Food blockades in La Paz, Leyte, as recounted by Rev. Ugsad, were made through checkpoints whenever people from the barangays go to the poblacion to buy goods and provisions. The people are asked by vigilante group members to pay three pesos (P3.00) at every checkpoint. In the case of rice, if a cavan is bought, only one or two gantas are allowed and the rest of the rice is left at the checkpoint. The people were unable to bring and sell their copra at the poblacion: neither could they buy goods from the poblacion to sell in their barangays. When allowed, purchases were limited. People were also arrested without warrants of arrest, according to Rev. Ugsad, who also reported cases of torture by vigilante members of citizens suspected of being NPA.¹⁰

2. Fr. MacDonaugh reported a killing that took place October 22, 1987 about 2:00 o'clock in the afternoon. A young boy of 14 years was hacked to death by Tadtad members. Within a kilometer away was a detachment of an Army IB. Fr. MacDonaugh documented the killing and made recommendations through their local bishop and to the Army commander, but no response was received.¹¹

3. Bishop Antonio Tobias of Pagadian City submitted documents and testified on abuses committed by Tadtad and Kuratong

Baleleng members. He reported the kidnapping and illegal detention of one Pablo Cruz last August 1987.

Bishop Tobias also submitted documents from Atty. Tecson, Chairman of a human rights organization in Zamboanga del Sur. In one document, it was reported that some traders from Misamis Occidental and Zamboanga del Sur were victims of robberies and extortions committed by Kuratong Baleleng members headed by a certain Unkoy Parohinog, whose criminal activities the local government officials were unable to stop or control.¹²

4. Tadtads also operated in areas in Dumalinao, San Miguel and Dimataling in Zamboanga del Sur according to the testimonies of Fr. Meagher. Harassments, deaths, detentions and extortions were attributed to the Tadtad members whose operations are known to the military. Because these Tadtad members are well armed, people are afraid of them. In the town of San Miguel, people evacuated their homes in the evenings. Fr. Meagher claimed that the complaints submitted to both civil and military were useless because the authorities often say that the vigilantes are not under their control.

Fr. Meagher also recounted Kuratong Baleleng operations in Lawos, Ozamiz City. The members were publicly known as notorious criminal elements and were heavily armed. The documentation submitted claimed that the Kuratong Baleleng members operated with the consent and support of military, police and local authorities.¹³

5. Mrs. Lolita Dellosa, a teacher who with others sought refuge in Manila, appealed for the arrest of the vigilante groups in La Paz, Leyte, headed by one Chief Angelo Marcos. The vigilante members were known ex-convicts and criminal elements. Mrs. Dellosa claimed that the homes they left behind were ransacked and their belongings including their clothes were taken. "Hanggang dito sa Maynila may mga vigilante na sinusundan kami," Dellosa stated. "At saka natatakot nga kami dahil nang pumunta ang mga pulis dito, pinagkukunan kami ng litrato, isa-isa. Hanggang dito takot pa rin kami," Dellosa said.¹⁴ Her fears were not unfounded. For she was soon arrested, charged with subversion and detained in Cebu for sometime.

6. Ramon Mamolo, one of the refugees and member of the Sangguniang Bayan of Javier, Leyte, narrated his experiences with Alsa Masa members. He and his wife were riding a motorcycle when fired

upon. Neither of them were hit but since then Mamolo said he had not gone back to Javier in Leyte. Asked by the Committee Chairman how he (Mamolo) was able to identify those who shot at him and his wife, Mamolo said he knew the members because Barangay Binoloc and Barangay Laray were only two kilometers away from each other. Mamolo said he often saw those persons.¹⁵

7. Mr. Arnel de Guzman submitted a summary of the excesses of vigilantes from February 1987 to June 1987 in different parts of the country. De Guzman said at least 67 persons were killed, mostly unarmed civilians. The incidents included the hacking of peasants Loreto Ubod and Lucia Madayan from Guadalupe, Cebu; of labor leader Peter Alderete, a case documented by Amnesty International in July, 1987. De Guzman reported cases of salvagings and massacres. For the first semester of 1987, according to De Guzman, right-wing vigilante groups illegally arrested 130 persons, caused the evacuation of 2,291 families or approximately 13,746 persons in harassment operations, committed 31 cases of physical assaults, 3 cases of destruction of properties, and 17 cases of divestments.¹⁶ (For excerpts of said testimonies, and fact-finding missions reports, and other complaints on vigilante abuses, please see Annexes K, L and M.)

Civilian Volunteer Self-Defense Organizations (CVSDOs)

From the testimonies given, it came out that the Guidelines on Civilian Volunteer Self-Defense Organizations, or CVSDOs, were not issued in accordance with law. The Chairman of the Committee elicited the admission from the then Secretary Rafael Iletto of National Defense that there is no specific law for them to issue the guidelines, but they thought the functions fall directly under them (the members of a sub-committee on CVSDO: from the Department of National Defense, Department of Local Government and the Commission on Human Rights.)¹⁷

The then Secretary of National Defense also confirmed, upon questioning of Senator Pimentel's representative (Ms. Daffon), that there was no legal basis for the organization of the vigilante groups, and that the inter-agency committee was not created by an executive order and that the sub-committee recommendations do not have the force of law.¹⁸

Dr. Maria Serena Diokno observed that the CVSDO guidelines issued by the inter-agency sub-committee on October 30, 1987 were practically the same as the guidelines issued by the then AFP Chief of Staff on April 1, 1987. She noted that one of their sources was P.D. 1016 providing for the CHDF, and then recalled that when Marcos created the CHDF in 1976, "none even believed it would become a monster, like a demon, and that many of the violations were committed by the CHDF." Dr. Diokno bewailed the fact that after "having committed ourselves under the new Constitution to dismantle the CHDF, we are now going to endorse and allow groups like these to exist. I do not want to sound alarmist, but this is taking place all over the country, and they are saying that the fact that people are arming themselves is an indictment against the government; that they did not believe the government is capable of defending them. This is very dangerous. I do not know if vigilantes could be controlled afterwards, after allowing them to proliferate."¹⁹

Senator Alberto Romulo considered it "appalling that an inter-agency subcommittee under the Republic of the Philippines should continue to use a Presidential Decree (PD 1016) which precisely had been the bludgeon and the tool to oppress our people ..." If PD 1016 has been repealed, even to consider it as a reference is the "height of insensitivity", according to Senator Romulo.²⁰

The lack of legal basis for the issuance of the guidelines was underscored by Atty. Arnedo Valera who commented that the references cited in the Guidelines for CVSDOs have no specific provisions for the creation of vigilantes.²¹

Bishop Antonio Tobias was emphatic about the lack of constitutional basis for the organization of vigilante groups.²²

(For relevant testimonies on CVSDO guidelines and reactions thereto, please see Annexes N and O.)

(For newspaper editorials, comments of columnists and articles of journalists, statements of concern, position, protest, appeal and call for action, please see Annexes P, Q, R and S.)

Findings

The Committee evaluated complaints made in person or by affidavits, as well as reports submitted by those invited to testify. It

examined and cross-examined the witnesses. Newspaper editorials, relevant comments and articles of respected columnists and journalists, and statements of concern here and abroad, were reviewed for the insights given on the vigilante phenomenon, their so-called "spontaneous proliferation" and alleged abuses and human rights violations of some vigilante groups and members. Other materials submitted to the Committee were considered as additional inputs for the objectives of the committee inquiry in aid of legislation.

The Committee submits the following findings:

I. On the Organization of Vigilante Groups

1. The claim that the growth in number of vigilante groups was due to "spontaneous proliferation" is rendered dubious. Government civilian and military officials admit that vigilante groups were initiated or organized for counter-insurgency more than for self-defense.

The record of complaints and accusations against many of the recorded vigilante groups point to a trend of escalating human rights violations against innocent civilians. This is attested to by signed statements and affidavits of the victims and their witnesses which were submitted not only to the Committee but to other government bodies like the Commission on Human Rights, Department of National Defense, Department of Local Governments, National Security Council, etc. This record involves well-documented cases, several of which are complete with first-hand testimonies and evidences of grave human rights abuses comparable to those committed under the Marcos regime.

The existence and operations of many vigilante groups subject the local population to a grip of paralyzing, debilitating fear that greatly hampers their ability to work for their livelihood and the welfare of their families and communities. Such fear also prevents them from exercising their constitutional right to organize and collectively solve their community problems.

The existence and operations of many vigilante groups cause the disruption of self-reliant communities, thereby nipping in the bud, if not stunting, the flowering of people's power in the barangays which aim at socio-political-economic upliftment of local conditions.

The organized "proliferation" of vigilante groups was deplorable considering that the new Constitution already directed the dismantling

of private armies and other armed groups and the dissolution of all paramilitary units including the CHDF. The Constitution provides that private armies and other armed groups not recognized by duly constituted authority shall be dismantled and all paramilitary forces including the Civilian Home Defense Forces not consistent with the citizen armed force established therein shall be dissolved or, where appropriate, converted into the regular force. (Article XVIII, Sec. 24).

2. Certain police and military personnel use vigilante groups and their members to perform police and military activities such as armed patrols, manning of checkpoints, and in search and seizure operations.

The responsibility for the maintenance of peace and order and the operation of the counter-insurgency campaign should be entrusted to police and military personnel who are responsible, well-trained and disciplined. Unable to discipline the vigilante groups, the military and the police authorities would appear to abnegate their duties to protect the lives and properties of the citizens and entrust the responsibility to local government officials. Gen. Alfredo Lim, of the WPD, had rejected the vigilante solution. He said he did not want civilians "fighting our battles for us" and that allowing them to take over the responsibility is an admission on the part of the police and military that they are inutile and might as well hand in their badges. (Manila Journal, April 16, 1987; see also Annex C, p. 12).

3. Many members of the vigilante groups are armed and some even carry high-powered firearms.

Certain military officers allowed members of vigilante groups to carry high-powered firearms in violation of existing law. Presidential Decree No. 1866 makes it a crime for any person, civilian or military, who shall issue authority to carry firearms and/or ammunition outside of his residence without prior authority therefor.

4. Many of the members of some vigilante groups are also members of the Civilian Home Defense Forces.

Some vigilante groups and the CHDF are similar; they are practically one and the same. As pointed out by the Philippine Daily Inquirer in its Editorial "Same dog, new collar" on June 7, 1987:

Despite the many atrocities that have been attributed to the defunct CHDF — and its equally notorious predecessors, the ICHDF and the BSDU — few abusive militiamen have been hauled off to court, much less imprisoned. Hardly any official record exists by which the administration can determine those ex-CHDF personnel who don't deserve to be mustered into the new militia. Because of this critical oversight and considering President Aquino's assurances ... that only upstanding members of local communities would be allowed to join the citizens' army, it obviously would have been wiser for the authorities to deny former CHDF, ICHDF and BSDU personnel membership in the new militia. After all, it has often been remarked, particularly by the authorities themselves that a few 'rotten apples' can so easily discredit the entire organization. By barring former Marcos militiamen, the administration would have made a clean break from the abusive paramilitary units of the past, and have given a truly fresh start for the citizens' army. But evidently this is not to be so. By swallowing hook, line and sinker the urgings of certain advisers of hers, the President may have unwittingly become a party to the fitting of a new collar on the same fierce old cur that is the CHDF." (Please see Annex T).

The Chief Justice of the Supreme Court, Claudio Teehankee, significantly warned that if the vigilante phenomenon got out of hand, the vigilante groups would be no better, and could be worse than the dreaded secret marshalls of the previous repressive regime who ran up a record body count of 160 alleged holdup men in less than two years. (Manila Journal, April 16, 1987; see also Annex E.)

5. Vigilante groups become notorious because some of their leaders and members are police characters with criminal records.

II. On the Sub-Committee that Issued the CVSDO Guidelines

1. The inter-agency sub-committee that issued the CVSDO guidelines was not duly constituted and had no authority to issue said guidelines, which act, by its very nature and effect, would require the exercise of legislative power.

It is the province of the legislature to prescribe general rules for the government of society. The essentials of the legislative function is the determination of the legislative policy and its formulation and promulgation as defined and as binding rules of conduct. (*Occena vs. Commission on Election 95 SCRA 735*). Public officials and administrative authorities must exercise only power and authority granted by statute. (*Radio Communications of the Philippines, Inc. vs. Santiago, 58 SCRA 493*). The guidelines laid down general rules and regulations. The sub-committee did not have that rule-making authority — rule-making meaning a legislation on the administrative level, i.e., legislation within the confines of the granting statute as required by the Constitution and its doctrine on non-delegability and separation of powers. (*Central Bank vs. Cloribel, 44 SCRA 307*). The Revised Penal Code prohibits any public officer to encroach upon the powers of the legislative branch of the Government, either by making general rules or regulations beyond the scope of his authority, or by attempting to repeal a law or suspend the execution thereof. (Revised Penal Code, Art. 239).

III. On the Guidelines Issued for CVSDOs

1. The guidelines issued on October 30, 1987 by a self-appointed sub-committee on CVSDOs composed of the then Secretary of National Defense, the Acting Secretary of Local Government, and the Acting Chairman of the Commission on Human Rights, appear to have been based on an earlier set of guidelines dated April 1, 1987 issued by the then Chief of Staff of the Armed Forces of the Philippines, to fill up an expected vacuum created by Executive Order No. 275 providing for the dismantling of paramilitary, CHDF and other armed groups pursuant to Section 24, Article XVIII, of the Constitution.

2. The guidelines are incomplete and inadequate as there are no clear provisions on the operations, control and supervision of vigilante groups as well as in their basic training, which leaves much to be desired in terms of accountability, military responsibility and strategy in case of an enemy attack on a community. These deficiencies were admitted by Secretary Iletto in answer to questions by Senator Juan Ponce Enrile. (Please refer to testimony of Secretary Iletto in Annex M hereof). There were contradictory statements on the nature, organization, and objectives of vigilante groups.

3. The argument that the guidelines were issued "on the basis of the fundamental concept of the inherent rights of citizens, singly or

collectively, to self defense", is untenable considering the nature, organization, composition, purpose of the groups, and their reported abuses. As observed by Fr. Joaquin Bernas, S.J., in his Manila Bulletin Column of December 12, 1987, the argument in support of the guidelines drawn from the right of self-defense would be unassailable if it merely involved a question of individual self-defense. However, according to Fr. Bernas, what is involved in the guidelines is associational self-defense.

The argument from the right to form associations would also be unassailable if the Constitution itself did not put down the restrictions on the type of associations that are in issue. But this is where the problem lies. Executive circles seem to focus only on constitutional provisions which support a preferred government position and pass in silence over what militates against the government position. In the guidelines controversy, Article XVIII, Section 24, which is a specific limitation on associational self-defense is being conveniently ignored.

Article XVIII, Section 24 contains two limitations on associational self-defense rights:

First, private armies and other armed groups not recognized by duly constituted authority shall be dismantled. This might not be applicable to armed groups that hide behind the skirt of the guidelines.

Second, all paramilitary forces including the CHDF not consistent with the citizen armed force established in this Constitution (Article XVI, Section 4) shall be dissolved or, where appropriate, converted into the regular force. Thus, this provision prohibits the conferral of government blessing on any armed group no matter how legitimate it looked on its face. This prohibits what the guidelines bless. Government should dissolve armed self-defense groups or convert them into the regular armed force, not bless them or tolerate them. The guidelines, on the contrary, acknowledge their existence and encourage their growth instead of dissolving them. It is difficult to reconcile such blessing and encouragement of what is prohibited by the Constitution with

the President's duty to 'ensure that laws be faithfully executed.'

The citizen armed force envisioned in Article XVI, Section 4, is intended by the Constitution to be one answer to the problems vigilante groups are seeking to answer. The citizen armed force, however, will be different from the vigilante groups blessed by the guidelines in that they would consist of members who are professionally trained and answerable to military discipline. Because of the unfortunate experience the nation has had with paramilitary forces, the constitutional command is that the form and shape of the citizen armed force should be prescribed by law. Unfortunately, however, no such law as yet exists. The executive and legislative departments instead of encouraging what the Constitution prohibits must get together to hammer out a law on the citizen armed force." (Please see Annex U).

The guidelines, in any event, are not being implemented or followed.

IV. On the Peace and Order Councils

The use of the Peace and Order Councils as instruments for counter-insurgency may not prove beneficial to the people as it appears that civilians could directly be employed in the conduct of military affairs.

Executive Order No. 309 dated November 11, 1987 reorganizing the Peace and Order Councils provides in Section Two thereof that the Peace and Order Councils at the national level shall be responsible for the following functions:

(b) To coordinate and monitor ... the operation of Civilian Volunteer Self-Defense Organizations and such other counter-insurgency programs and activities.

and, pertinently, Section Three provides that the Regional, Provincial and City/Municipal Peace and Order Councils shall have the following

duties and functions:

(b) To monitor the implementation of ... the operations of Civilian Volunteer Self-Defense Organizations and such other counter-insurgency programs and activities.

There is strong apprehension that the Peace and Order Councils may be wittingly or unwittingly used to legitimize armed vigilantes and other paramilitary groups in the country, in violation of the Constitution for, as it is shown herein, the CVSDOs have no legal basis, and the inter-agency sub-committee that issued it had no legal authority whatsoever. It must be noted that even under the previous regime, civilian government officials were directed to involve or participate actively only in the non-military aspects of counter-insurgency operations (LOI 1435 dated October 31, 1984).

V. On Human Rights Violations

Countless violations of human rights have been attributed to some vigilante groups and their members who were accused of abuses, excesses, and atrocities.

Human rights violations particularly criminal acts attributed to some vigilante groups and their members have caused deaths, physical and mental cruelties, destruction of property, and deprivation of civil and human rights. These were more acutely suffered by the poor and the helpless inhabitants in the rural and even in certain urban areas.

RECOMMENDATIONS

I

Dismantle vigilante groups.

II

Enact a law to establish the Citizens Armed Force as provided in the Constitution, recall the guidelines on the Civilian Volunteer Self-Defense

Organizations, and prohibit the use of civilians in the conduct of military affairs even under the reorganized Peace and Order Council (Executive Order No. 309, dated November 11, 1987).

III

Enact a new National Defense Act removing foreign influences in the existing law (Commonwealth Act No. 1) which was enacted under colonial pressures, incorporating therein Constitutional provisions strengthening the patriotic spirit and nationalist consciousness of the military, enjoining respect for people's rights in the performance of their duty, insulating the Armed Forces from partisan politics, and a continuing program for the development of the Armed Forces of the Philippines as a Filipino, nationalistic, strong, dependable, and self-reliant Armed Forces.

Notes

- 1 TSN, Hearing Nov. 3, 1987, p. 1 (Alavazo)
- 2 TSN, Hearing Nov. 3, 1987, p. 4 (Beniga III)
- 3 TSN, Hearing Nov. 3, 1987, pp. 1-2 (Caturla)
- 4 TSN, Hearing Jan. 13, 1988, p. 4 (Beniga D); p. 1 (ANP I)
- 5 TSN, Hearing Jan. 13, 1988, p. 2 (ANP I)
- 6 TSN, Hearing Dec. 2, 1987, p. 3 (Bonilla I)
- 7 *Id.*, p. 3
- 8 TSN, Hearing Nov. 3, 1987, p. 2 (Caturla)
- 9 TSN, Hearing Jan. 13, 1988, p. 5 (ANP III); p. 1 (Lasquety II);
- 10 TSN, Hearing Nov. 3, 1987, p. 2 (Abueg)
- 11 TSN, Hearing Dec. 2, 1987, pp. 1-2 (Bonilla III)
- 12 TSN, Hearing Nov. 3, 1987, p. 2 (Caturla)
- 13 TSN, Hearing Nov. 3, 1987, pp. 4-5 (Lasquety III); p. 2 (Bonilla II)
- 14 TSN, Hearing Nov. 3, 1987, p. 2 (Alavazo I)
- 15 TSN, Hearing Nov. 3, 1987, p. 3 (Beniga I)
- 16 TSN, Hearing Nov. 3, 1987, p. 3 (Caturla)
- 17 TSN, Hearing Nov. 5, 1987, pp. 2-4 (Caturla)
- 18 TSN, Hearing Nov. 5, 1987, pp. 3-4 (Caturla)
- 19 TSN, Hearing Nov. 3, 1987, pp. 3-4 (Alavazo)
- 20 TSN, Hearing Nov. 3, 1987, p. 5 (Alavazo D); p. 1 (Beniga IV)
- 21 TSN, Hearing Nov. 3, 1987, p. 1 (Caturla)
- 22 TSN, Hearing Nov. 3, 1987, p. 1 (Caturla)

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