

**Scope and Implications
of the Supreme Court Decision
In the “Batasan Six” and Mass Leaders’
Certiorari Petitions
(G.R. Nos. 172070-72; G.R. Nos. 172074-76 and
G.R. No. 175013)**

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Prefatory

In two criminal indictments (informations) separately filed in the Regional Trial Court of Makati City, the Department of Justice of the Government of the Republic of the Philippines (GRP) charged with rebellion the following Filipino leaders who compose the whole spectrum of ideological and political forces opposed to the government of Gloria Macapagal-Arroyo:

1. all the alleged top leaders and alleged members of the Central Committee of the Communist Party of the Philippines (CPP), including Prof. Jose Maria Sison, Ms. Juliet Sison, National Democratic Front of the Philippines (NDFP) Peace Negotiating

¹ The Defense Panel of Batasan Six includes Atty. Rachel F. Pastores, Managing Counsel of the Public Interest Law Center (PILC); Atty. Amylyn B. Sato and Atty. Charmaine de la Cruz, also of PILC; Atty. Neri Javier Colmenares, Atty. Bernabe Figueroa, Atty. Alnie Foja, Atty. Noel Neri, Atty. Edre Olalia and Atty. Jobert Pahilga; and Atty. Herminio Harry L. Roque, Jr., Atty. Alfredo Ligon III, and Atty. Gary S. Mallari of Roque and Butuyan Law Office.

Panel Chairman Luis Jalandoni, NDFP Peace Negotiating Panel Member Fidel V. Agcaoili, CPP spokesperson Gregorio “Ka Roger” Rosal, Benito Tiamzon and Wilma Tiamzon;

2. progressive partylists and more popularly known as “Batasan Six” congresspersons Liza Maza of Gabriela Women’s Party, Crispin Beltran and Rafael Mariano of Anakpawis, Saturnino Ocampo, Teodoro Casiño and Joel Virador of Bayan Muna;
3. leaders of progressive mass organizations and consultants in the GRP-NDFP peace negotiations Vicente Ladlad, Nathaniel Santiago, Rey Claro Casambre, Rafael Baylosis, Sotero Llamas (now deceased and one of the victims of extra-judicial executions) Randal Echaniz and Tita Lubi; and
4. alleged top military rebels Gregorio Honasan (now a senator of the Republic), Lawrence San Juan, Jake Malajacan, Felix Turingan, Angelbert Gay, Patricio Bumindang, Aldrin Baldonado and Atty. Christopher Belmonte (one of their lawyers).

After the filing of the informations in the Regional Trial Court, “Batasan Six” and three mass leaders sought relief in the Supreme Court

by way of petitions for certiorari, invoking as grounds grave abuse of discretion committed by the Department of Justice and the lower court. For obvious reasons, the alleged leaders of the Communist Party of the Philippines who were abroad or who opted out of the GRP legal system did not participate in the proceedings.

The petitioners questioned the evidentiary and factual basis of the finding of probable cause as well as the prosecutorial misconduct of Secretary Raul Gonzales of the Department of Justice (DOJ) and the DOJ prosecutors who conducted the preliminary investigation. They also challenged the validity of the resolution of the Regional Trial Court judges affirming the DOJ's findings and actions.

The petitioners assailed not only the conduct of the preliminary investigation as violative of their due process rights but, more importantly, the admissibility, credibility and probative value of the evidence presented by the government in an attempt to substantiate the charges of rebellion against them and the rest of the accused. The petitioners accused the Macapagal-Arroyo government of political persecution by concocting the charges and manufacturing evidence, questioned the impartiality of the Department of Justice in the conduct of preliminary investigation and

invoked their constitutional rights to substantive and procedural due process.

Scope of the Charges Alleged in the Informations

National Security Adviser Norberto Gonzales admitted to the Inter-Parliamentary Union (IPU) delegation that it took the Inter-Agency Legal Action Group (IALAG) headed by him nine months to prepare the rebellion charges against the fifty-one people who were accused in the two rebellion cases. (*Philippine Daily Inquirer* issue of July 11, 2007: “Gov’t Raps vs 6 Militant Lawmakers ‘Politically Motivated’ says IPU.) The IPU delegation conducted a fact-finding mission to the Philippines to look into the cases against “Batasan Six” and concluded that the filing of these cases were politically-motivated. In this connection, it should be noted that IALAG was created by President Macapagal-Arroyo through Executive Order No. 493 for the “coordination of national security cases.” It is composed of the Office of the National Security Adviser, Department of Justice, Department of National Defense, Department of Local Government, National Intelligence Coordinating Agency, Armed Forces of the Philippines, National Bureau of Investigation, and such other units as may be tasked by the National Security Adviser.

Ironically, the statement of Norberto Gonzales regarding the length of time and amount of resources spent by the Macapagal-Arroyo government to build the rebellion cases against the fifty-one accused appears to be credible, as it is borne out by the scope of the enumeration of the alleged acts of rebellion in the two criminal indictments and the volume of the manufactured evidence adduced by the government in an attempt to substantiate the charges. The scope of the alleged acts of rebellion enumerated in the criminal indictments is so broad that it encompasses the entire existence and revolutionary struggle of the Communist Party of the Philippines from its founding on 28 December 1968 to the date of the filing of the first of two criminal indictments on 21 April 2006, or a total period of more than 37 years. Incidentally, Congressman Teodoro Casiño, one of the principal accused and member of “Batasan Six” was barely one month old when the principal acts of rebellion and conspiracy imputed to him were allegedly committed. The range of acts of rebellion allegedly committed by the fifty-one accused and alleged co-conspirators in the crime of rebellion is so broad and numerous that they include the heinous crimes of massacre, murder, kidnapping and robbery, arson, extortion, illegal possession of firearms, and even open, legal campaigns and militant mass actions in the streets of Metro Manila

against the anti-poor and anti-Filipino government policies of the Macapagal-Arroyo government.

Significantly, the informations and the “evidence” implicitly admit that these acts were politically-motivated and have been committed in pursuit of rebellion, an admission that these common crimes have been absorbed in rebellion and cannot be the subject of separate criminal prosecution pursuant to the political offense doctrine in **People vs. Hernandez** (99 *Phil.* 515).

Guilt By Association of Names and Bare-faced Allegations of Conspiracy

A clinical analysis of the two informations against the fifty one accused and the voluminous documentary evidence, if interpreted in the context of the policy statements of Gloria Macapagal-Arroyo and her top national security officials, reveals the following:

1. the main targets of political persecution are:
 - 1.1. Metro-Manila based national leaders of the progressive legal opposition, particularly “Batasan Six”, Vicente

Ladlad, Rey Claro Casambre, Nathaniel Santiago, Rafael Baylosis, Tita Lubi, Randal Echaniz and many other prominent mass leaders of legal organizations who have been maliciously labeled and implicated in the rebellion cases; and

- 1.2. the Utrecht-Netherlands-based militant opposition leaders who, since 1993, have been in the forefront as negotiators and consultants of the National Democratic Front of the Philippines (NDFP) in the quest for a just and lasting peace through peace negotiations with the Government of the Republic of the Philippines, particularly Prof. Jose Maria Sison, Juliet Sison, Luis Jalandoni and Fidel Agcaoili.

Recycling an old tactic, the names of these mass leaders and peace negotiators and consultants have been lumped in the same informations together with the names of known underground revolutionary leaders of the CPP/NPA who have been engaged in the armed struggle against the forces of the GRP and with those of the military rebels. Without an iota of evidence, the informations alleged conspiracy, in an attempt to impute to these legal opposition leaders the revolutionary acts of the CPP/NPA and

the mutinous acts of the military rebels. The clumsy loud-mouthed DOJ Secretary Raul Gonzales capsulized and gave away their trial tactic and political agenda when he said, “We will just declare probable cause, then it’s up to the court to decide (on charges)” (*Philippine Star issue of March 14, 2006 in the news item entitled, “Housemates Get 10 Days to Answer Raps”*). By employing tremendous pressure tactics on the lower court judges, Gonzales thought he could secure warrants of arrest against the fifty-one accused, arrest and detain indefinitely without the right to bail those who could be reached by the tentacles of the long arm of repression of the Macapagal-Arroyo government and achieve their objective of neutralizing the national and international leaders of the progressive legal opposition.

The timely issuance of a status quo order and the decision in these three consolidated certiorari petitions by the Supreme Court thwarted the evil scheme of the Macapagal-Arroyo government albeit at so much personal sacrifice on the part of Congressmen Crispin Beltran who courageously fought his case while under PNP custody for almost seventeen months.

The Evidence For the Government

In an obvious attempt to impress the courts and condition the minds of the general public that the government had a strong case, the prosecutors, assisted by the Philippine National Police (PNP) and the Armed Forces of the Philippines (AFP), submitted to the court as their “evidence” five thick folders consisting of 392 documents. As earlier stated, these documents contain alleged acts, events and incidents imputed to the fifty-one co-accused over a period of more than 37 years. A clinical analysis of these documents would show that they are mostly printed materials which are irrelevant, immaterial, hearsay, spurious, unauthenticated and inadmissible which must have been retrieved from the anti-insurgency document section of the military/police archives or long consigned to their shredding machines. Most of them are alleged CPP/NPA education/propaganda materials, confessions and incriminating statements of alleged former CPP/NPA members turned military assets, excerpts from unknown documents, news releases and documents of legal mass organizations, newsletters, death certificates, hard copies of papers downloaded from websites and similar printed materials. The breadth of the “documentary evidence” is such that some of them labeled and implicated in the crime of rebellion practically all the legal progressive organizations, leaders and lawyers of such organizations including this representation, without formally charging them in the informations. This

scheme labels and libels the victims in judicial records without giving them the opportunity to defend themselves.

In the decision, the Supreme Court rejected all these documents and explicitly declared them insufficient to establish probable cause to warrant the filing of criminal indictments and prosecute the accused on the basis thereof.

The decision demolished the probative value, credibility and admissibility of all these 392 documents as against all the 51 accused and against anyone who may, in the future, be the target of political persecution. The decision also precluded the Macapagal-Arroyo government from recycling any of these documents to build or substantiate another case or cases in the future.

The Decision Affirmed and Strengthened a Landmark Doctrine that Allows Direct Recourse to the Supreme Court

One of the principal defenses interposed by the government against our petitions is violation of the rule on hierarchy of courts. Related to this, the government also invoked the general rule restricting the power of the

courts to interfere with the public prosecutor’s determination of probable cause (**Acuna vs. Deputy Ombudsman for Luzon**, 450 SCRA, 2005). Despite these doctrines, and the well-meaning advice of some colleagues, we gambled and sought direct recourse and relief from the highest court of the GRP. Our decision has been vindicated with the following pronouncement of the Supreme Court in these three consolidated cases:

“However, in the few exceptional cases where the prosecutor abused his discretion by ignoring a clear insufficiency of evidence to support a finding of probable cause, thus denying the accused his rights to substantive and procedural due process, we have not hesitated to intervene and exercise our review power under Rule 65 to overturn the prosecutor’s finding. This exception holds true here.”

The decision added that direct recourse and relief in equity may be granted by the Supreme Court “if, among others, the same is necessary (a) to prevent the use of the strong arm of the law in an oppressive and vindictive manner or (b) to afford adequate protection to constitutional rights.”

**The Supreme Court Castigated
Raul Gonzales and His Public
Prosecutors**

As a parting shot and by way of what the Supreme Court appropriately called its Final Word, the Highest Court of the Republic castigated in a very strong and explicit language the actuations of Justice Secretary Raul Gonzales and the DOJ public prosecutors who conducted the preliminary investigation of the two rebellion cases and approved their filing in the Regional Trial Court in order to persecute politically the fifty-one accused. These public prosecutors include the Chief State Prosecutor and eight other ranking state prosecutors in the Department of Justice. The Court said: “The obvious involvement of political considerations in the actuations of respondent Secretary of Justice and respondent prosecutors brings to mind an observation we made in another equally politically charged case,” where the Court admonished public prosecutors not to allow their office to be used or prostituted for political objectives. Implicit in these clear pronouncements of the Supreme Court is the culpability of Gloria Macapagal-Arroyo in the political persecution of the fifty-one accused. It was her office which issued the Executive Order creating IALAG. National Security Adviser Norberto Gonzales admitted that it took IALAG nine months to build the rebellion cases. Her alter-egos are the implementors of the scheme to persecute the political opponents of her regime. As Head of State and Commander-in-Chief, she cannot allege any valid defense to escape culpability for incriminatory machination or

political persecution, damages and possible impeachment. Surely, the victims of this persecution, especially Congressman Beltran can and should file criminal, administrative and civil actions for damages against their persecutors.

**The Supreme Court Decision
Ordered the Dismissal and
Absolved all the Fifty-one
Accused in the Two Rebellion
Cases in the Regional Trial Court**

Significantly, the Supreme Court did not merely absolve the petitioners in the three petitions for certiorari, namely, the six progressive Partylist representatives (Crispin Beltran and Rafael Mariano of Anakpawis, Liza Maza of Gabriela Women’s Party, and Saturnino Ocampo, Teodoro Casiño and Joel Virador of Bayan Muna) and progressive mass organizations leaders Vicente Ladlad, Rey Claro Casambre and Nathaniel Santiago. The Supreme Court decision ordered Branch 150 of the Regional Trial Court of Makati to dismiss the two rebellion cases against all the 51 accused, regardless of whether or not they participated or intervened in the certiorari petitions filed in the Supreme Court. Pursuant to this order, the said Regional Trial Court dismissed the two rebellion cases (Nos. 06-452 and 06-944) against all the

accused in an order dated 10 July 2007. The Regional Trial Court likewise ordered the immediate release of Congressman Crispin Beltran from the custody of the PNP.

The foregoing scope and implications of the consolidated decision of the Philippine Supreme Court in the three petitions for certiorari are obviously the reasons that prompted Solicitor-General Agnes Devanadera to admit that the decision is of far-reaching consequences and implications to the anti-insurgency campaign of the Macapagal-Arroyo government. They are obviously the same reasons that prompted Chief Presidential Legal Counsel Sergio Apostol to admit that the decision is a setback to the anti-insurgency campaign of the Macapagal-Arroyo government.

I don't disagree.

Indeed, political persecution through the filing of false charges and fabricated evidence through the conspiratorial efforts of the office of the National Security Adviser, Department of Justice, Department of National Defense, Department of Local Government, National Intelligence Coordinating Agency, Armed Forces of the Philippines, Philippine National Police, National Bureau of Investigation and other agencies of government, acting under the aegis of the Inter-Agency Legal Action Group (IALAG) is

an important component of the anti-insurgency campaign of the Macapagal-Arroyo government.

The reason is obvious. It will be politically costly for the Macapagal Arroyo government to kill or abduct Metro Manila-based Partylist members of Congress and prominent national leaders of the progressive mass movement. The solution is to “neutralize” them by putting them in jail thru the filing of non-bailable trumped-up criminal charges such as rebellion, while at the same time continuing to physically annihilate the mass members through extrajudicial executions and enforced disappearances and destroying their mass base in the countryside by militarization and state terrorism.

Makati, Philippines
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