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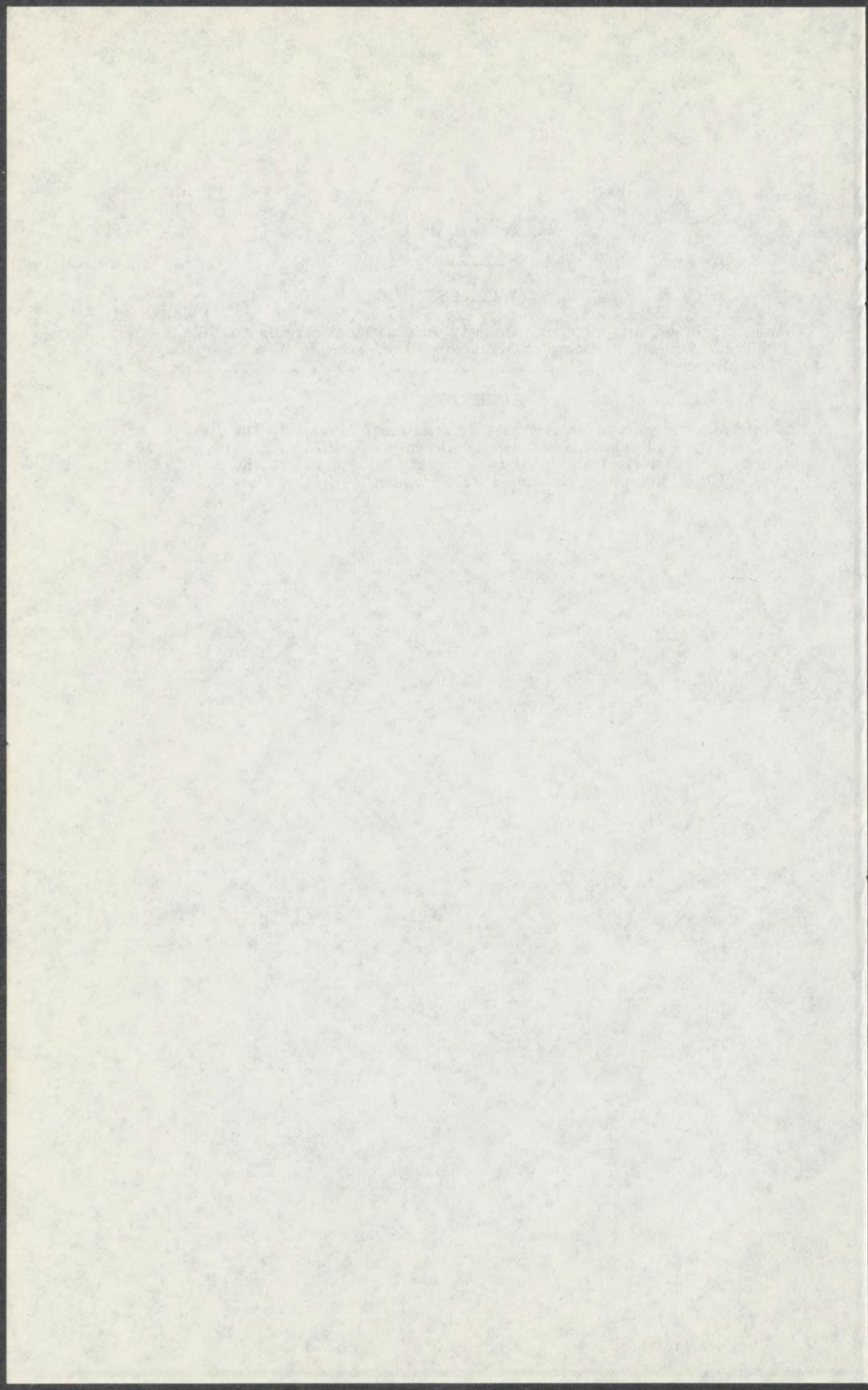
CONTENTS

WITNESS

	Page
Thomas C. Jones, Jr., member, Amnesty International Mission to the Philippines; member, Board of Directors, U.S. Section of Amnesty International.....	2

APPENDIX

Excerpt from "Report of an Amnesty International Mission to the Republic of the Philippines, November 22-December 5, 1975".....	21
Summary of "Report of an Amnesty International Mission to the Republic of the Philippines, November 22-December 5, 1975".....	28



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Other Documents in the Series

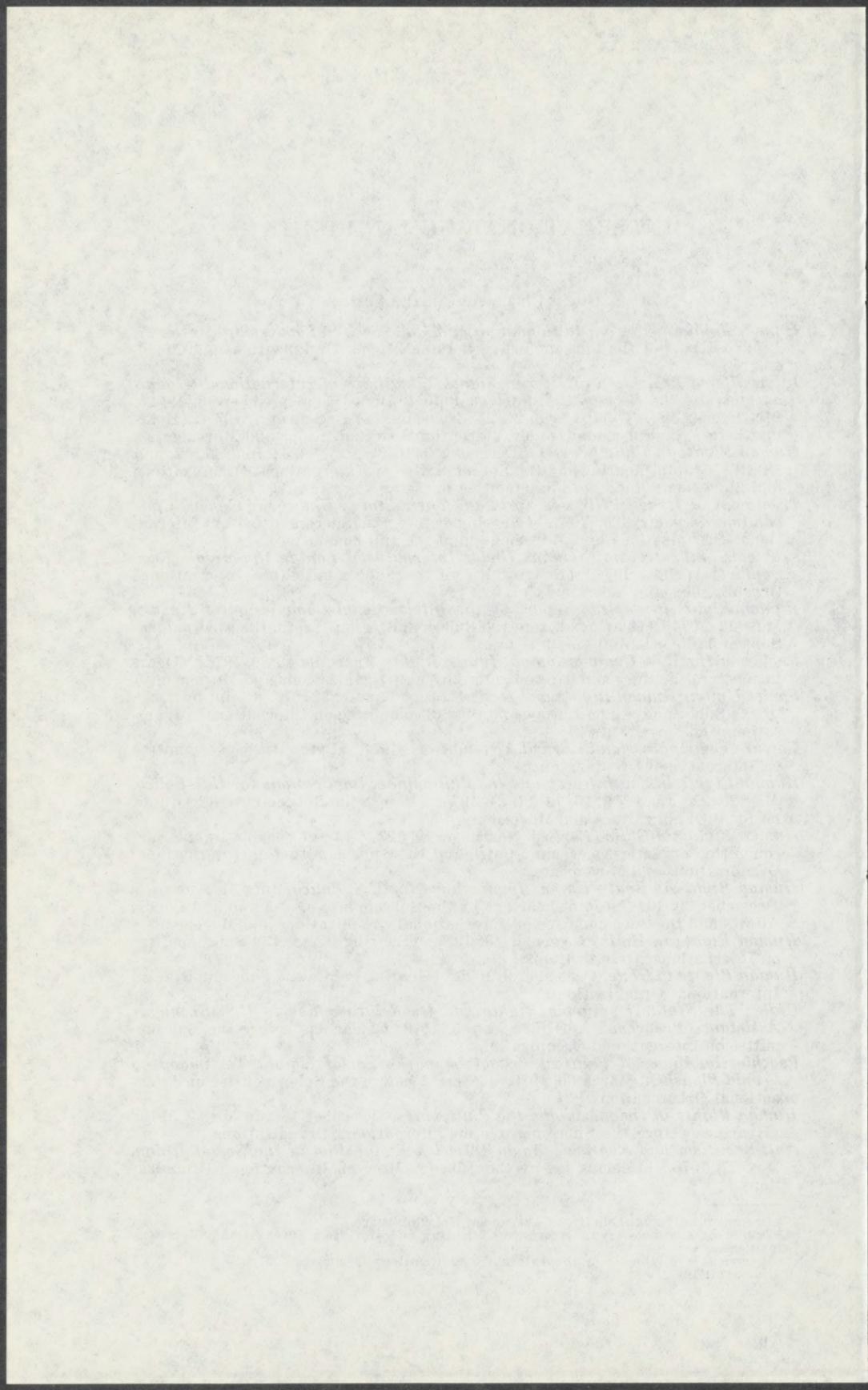
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- Human Rights in Haiti.*** November 18, 1975.² (Hearing before the Subcommittee on International Organizations.)
- Human Rights in Chile.*** December 9, 1975.² (Hearing before the Subcommittee on International Organizations.)
- Chile: The Status of Human Rights and Its Relationships to U.S. Economic Assistance Programs.*** April 29; May 5, 1976.² (Hearings before the Subcommittee on International Organizations.)
- Psychiatric Abuse of Political Prisoners in the Soviet Union: Testimony by Leonid Plyushch.*** March 30, 1976.² (Hearing before the Subcommittee on International Organizations.)
- Human Rights in Indonesia and the Philippines.*** December 18 and May 3, 1976.² (Hearings before the Subcommittee on International Organizations.)
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⁴ Not available.



HUMAN RIGHTS IN THE PHILIPPINES: REPORT BY AMNESTY INTERNATIONAL

WEDNESDAY, SEPTEMBER 15, 1976

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
SUBCOMMITTEE ON INTERNATIONAL ORGANIZATIONS,
Washington, D.C.

The subcommittee met at 2:05 p.m. in room 2255, Rayburn House Office Building, Hon. Donald M. Fraser (chairman of the subcommittee) presiding.

Mr. FRASER. Today, the subcommittee continues its review of the status of human rights in the Philippines. In the spring of 1975 and in May of this year, the subcommittee received testimony from a variety of witnesses, most of whom had firsthand knowledge of the situation in the Philippines.

These hearings are now published and available.¹

Most of the witnesses indicated that since the declaration of martial law in September 1972 there have been serious deprivations of human rights including torture, prolonged detention without trial, and severe restrictions on freedom of the press and association.

Subsequently, the Association of Major Religious Superiors of the Philippines reported widespread evidence of torture of political prisoners.

Congress recently adopted a provision of the Foreign Assistance Act which prohibits security assistance to any government which engages in a consistent pattern of gross violations of internationally recognized human rights. In implementing that provision, the Department of State is asked to take into consideration the findings of international nongovernmental organizations.

It is therefore very important for both the Congress and the Department to give full consideration to the report of Amnesty International on the situation in the Philippines which is being issued today. We are very pleased to have as our witness, Mr. Tom Jones, one of the members of the Amnesty International Mission to the Philippines. Mr. Jones, an attorney at law, is a member of the Board of Directors of the U.S. section of Amnesty International.

Mr. Jones, it is an honor to welcome you to the subcommittee. Why don't you proceed in whatever manner that you choose?

¹ See hearings "Human Rights in Indonesia and the Philippines," held by the Subcommittee on International Organizations on Dec. 18, 1975, and May 3, 1976.

STATEMENT OF THOMAS C. JONES, JR., MEMBER, AMNESTY INTERNATIONAL MISSION TO THE PHILIPPINES; MEMBER, BOARD OF DIRECTORS, U.S. SECTION OF AMNESTY INTERNATIONAL

Mr. JONES. Thank you, Mr. Chairman.

I will begin with my prepared statement.

My name is Thomas C. Jones, Jr.; I am a U.S. citizen, an attorney at law, residing in Washington, D.C. Since 1974, I have been a member of the Board of Directors of the U.S. section of Amnesty International.

Amnesty International is a worldwide human rights movement which works impartially for the release of prisoners of conscience: Men and women detained anywhere for their beliefs, color, ethnic origin, religion, or language, provided that they have neither used nor advocated violence.

Amnesty International opposes torture and capital punishment in all cases without reservation and advocates fair and prompt trials for all political prisoners.

Amnesty International is independent of all governments, political factions, ideologies, economic interests, and religious creeds. It is financed by its membership and by subscriptions from all parts of the world.

Amnesty International has consultative relations with the United Nations, the Council of Europe, the Organization of American States, and the Organization of African Unity.

It is on behalf of Amnesty International that my testimony is submitted.

I come before you today to testify to the findings of Amnesty International's Mission to the Philippines, which took place from November 22 through December 5, 1975. Members of the mission were Mr. Wen-hsien Huang, head of Asian Research of Amnesty International's International Secretariat in London, and myself.

At the outset I would like to state that Amnesty International publicly recognizes the spirit of open and constructive dialog with which the Philippine Government received the mission and wishes to place on record its appreciation for the courtesy and assistance given to the mission by President Marcos and leading officials.

In addition to an audience with the President, the mission sought the views of the Philippine Government in a number of extended meetings with Government and military leaders, including: The Secretary of National Defense, the Honorable Juan Ponce Enrile; the Solicitor General, the Honorable Estelito P. Mendoza; the Commanding General of the Philippines Constabulary, Maj. Gen. Fidel V. Ramos; the Judge Advocate General of the Armed Forces of the Philippines, Brig. Gen. Guillermo Santos; and other senior civilian, military, and intelligence officials with responsibility for the administration of prisoners arrested under martial law.

In addition, the government provided generous facilities to the delegates and assisted with the visits of the delegates to a number of main detention centers in Luzon, in order that the mission could conduct interviews with prisoners named by the mission.

Altogether, the mission conducted interviews with 107 prisoners in 8 different detention facilities, all in Luzon—because of shortage of time, the mission was unable to visit prisoners outside Luzon.

However, it must be stated that although permission to visit prisoners was given by senior officials, the mission did encounter problems in seeking interviews with specific prisoners, and furthermore, that there were difficulties in particular instances in securing confidentiality of interviews.

With this introduction, Mr. Chairman, I should like to ask that Amnesty International's official report on the mission, which is being released today, a copy of which I have here, be admitted as a part of the record of these hearings.

Mr. FRASER. It will be made a part of the record.¹

One of the objectives set for the mission was to study the problem of detention under martial law and the degree to which there was denial of human rights of those detained without trial. According to the Philippine Government's own estimates, within a few weeks of the declaration of martial law by President Marcos on September 21, 1972, some 30,000 individuals were arrested and detained.

In an interview with the Amnesty International Mission delegates in Manila on November 25, 1975, President Marcos stated that altogether some 50,000 individuals had been arrested and detained under martial law. While it is not possible at present to give a precise estimate of the total number of people currently held in detention, as of May 1975, a government spokesman estimated the number of political detainees at around 6,000; today, some independent observers estimate that the true numbers are much higher than 6,000.

Whatever the true figures are, the striking fact is that today, almost 4 years to the day after the declaration of martial law, there are thousands of political prisoners in the Philippines held without specific charges, without trial of the issues, and without the right to bail—simply locked up under unchecked executive authority.

The plight of these prisoners, many of whom have been detained now for several years, is compounded by the fact that the formerly strong and independent civilian judicial system has been almost completely undermined by a series of martial law decrees which have effected a massive shift of jurisdiction from civil courts to military commissions, particularly for offenses which are political in nature.

Since the only appeal from judgments of military commissions is through the Secretary of National Defense to the President, the supreme court's theoretical ability to provide a constitutional check on arbitrary executive action has been drastically reduced, if not de facto eliminated.

Moreover, within days after the declaration of martial law, President Marcos, in Letter of Instruction No. 11, directed all judges of all courts, with the exception of the supreme court, to submit undated letters of resignation, and the President has since not hesitated to use that power in forcing the resignation of a number of judges.

Finally, this undermining of the civilian judiciary was made complete under the terms of sections 9 and 10 of the so-called transitory provisions of the martial law constitution, which provide that all members of the judicial branch, including justices of the supreme court, are subject to removal at any time by Presidential decree, thus

¹ See excerpt from Amnesty International report in appendix at p. 21, and summary of the report in appendix on p. 28.

stripping them of the independence which the principle of tenure is intended to guarantee.

In effect, political prisoners in the Philippines find themselves in a kind of Kafkaesque limbo, detained under military authority by order of Presidential decree, subject to trial, if the executive decides to try them at all, by military officers directly answerable to the President as commander in chief.

Aside from these grave problems of indefinite detention, the mission found convincing evidence that the torture of martial law detainees was widespread and systematic. Of the 107 prisoners we interviewed in detention centers, 71 informed us that they had been subjected to brutal treatment, which in most cases took place during interrogation after arrest—in one case interrogations and torture in a so-called safe house continued on a daily basis for nearly 3 months.

The mission found that the detailed accounts given by the prisoners of brutal treatment were convincing. Many of the allegations against particular officers as interrogators who employed torture systematically were made by prisoners held in different detention centers with no previous opportunity to meet and compare their experiences.

Moreover, some of the prisoners, especially those held at Camp Olivas and 5th Constabulary Security Unit—5 CSU—stockade in Camp Crame, stated that they were witnesses to the brutal treatment of other prisoners.

Although the witnesses and victims, in some cases, had been detained in separate installations, the accounts were clearly consistent. At the time of the interviews, moreover, we noted a substantial number of cases with visible physical scars consistent with allegations of ill treatment.

After reviewing the evidence available to us, a substantial portion of which is detailed in this report, the delegates were deeply concerned about the extent to which the prisoners interviewed had been subjected to torture. It was our conclusion, and that of Amnesty International in this report, that torture of political detainees was used freely and with extreme cruelty, often over long periods. In particular, torture was used systematically against those who had no means of appeal to influential friends or established institutions.

Torture of women, although apparently less widespread, had occurred, and intimidation involving threats of sexual assault was commonplace.

Certain patterns of the incidence of torture emerged from the interviews. Thus, while it was the overall impression of the mission that torture was not systematically employed at the regular detention centers, we found compelling evidence that a high percentage of both present and former prisoners detained in the 5th Constabulary Security Unit Stockade, which functions as both a detention and interrogation center, had been subjected to systematic and severe torture.

The allegations of torture at 5 CSU included prolonged beatings with fists, kicks and karate blows, beatings with a variety of contusive instruments—including rifle butts, heavy wooden clubs and family-size soft drink bottles, the pounding of heads against walls or furni-

ture—such as the edge of a filing cabinet—the burning of genitals and pubic hair with the flame of a cigarette lighter, falanga—beating on the soles of the feet—and the so-called “lying on air” torture, in which an individual is made to lie with his feet on one bed, his head on a second bed, with his body “lying on air” in between; the individual is then beaten or kicked whenever he lets his body fall or sag.

A particularly insidious pattern of interrogation/torture which emerges from the interviews is the use of “safe houses” as they are called—they are in fact torture centers which are used by the National Intelligence Service Agency or NISA.

The following description of torture in a safe house, taken from this Amnesty International Report, will give some idea of what has happened to martial law detainees taken to “safe houses.”

He was beaten with a wooden club with four flat surfaces and an inscription on it. The torturers concentrated on his thighs, lower legs and buttocks, but also struck his head, face, chest, stomach and back with the club. He vomited often during and after the beatings. His entire body grew swollen and areas of skin were stripped from his thighs. The scars continued to be painful when touched.

The AI delegates found there were still two deep scars on his legs, a year and a half later, which were not completely healed. There were three scars on his legs from cigarette burns.

Other examples of interrogation by NISA agents are given in this report. It should be noted that NISA is an intelligence agency answerable only to President Marcos and under the command of the President's personal head of security, General Fabian Ver.

There are other disturbing patterns of torture which emerge from the interviews. For example, a large number of detainees who were interrogated by the Metropolitan Command of the Philippines Constabulary—known as M-2—at their headquarters in Camp Crame, Quezon City, were subjected to torture by electro-shock.

The following is an account of “interrogation” at M-2 headquarters:

At about 0900 hours they started what was called the “hard method.” A——— forced an iron ball about the size of a golf ball into my mouth. It was office hours and women employees of M-2 entered the room [the prisoner was naked]. Then came about 10 more intelligence personnel with their equipment. I was still handcuffed to the chair. Lieutenant N——— operated a cranker dynamo, connecting one terminal to my forefinger and the other terminal round my penis.

Questions were asked by Lieutenant G——— and for each I received a slap, with or without an answer. Lieutenant L——— strangled me round the neck.

Then followed the turning of the handle of the cranker dynamo, producing a current from low voltage, up to 90 volts that ran through my body. This was done five times for about 1 minute each time.

My nose was punched and bled heavily. O——— F——— struck me with his pistol on my left ear, which bled. I stumbled to the floor and rolled back and forth. The chair to which I was handcuffed was dragged as I moved.

Lying on the floor, I was kicked in the groin by Lieutenant L———, I lost consciousness. The pain I felt was really beyond human endurance. I shivered against the hot weather. My body was becoming colder and colder because of profuse sweating.

This incident caused my false dentures to break when punched by A——— G———. This caused my eardrum to be perforated. My hearing is damaged up to now. This caused my fractured collar bone. This caused my broken ribs.

Let me explain. In the original report submitted to the Philippines Government, we named the alleged tortures. In this report published,

we have only given initials, but the Government has the names of 88 military men charged with using torture.

The use of electro-shock as a method of torture in the Philippines has not been limited to men. Two sisters in their early twenties, who were recently released without having been charged or tried after 2 years of detention, told us that they were subjected to approximately 45 minutes of electro-shock each, one sister being forced to watch the other.

They described the ordeal as follows:

You can't help screaming—it makes you writhe all over * * *.

We had hallucinations afterwards—we each lost 5 pounds from the torture sessions. We couldn't talk straight. We had burns on our hands. They didn't allow us to sleep for almost 2 nights running. We were threatened with rape from the very beginning.

At least one NISA agent was among these women's torturers.

The apparent objective of interrogation/torture was in most cases to extract incriminating statements from the detainees about their own activities or the activities of others, although there were instances of what can only be described as brutality for its own sake. Virtually all of the detainees who were subjected to torture told us that they had signed confessions to anything and everything their interrogators wished, including statements that they had not been mistreated in any way.

What remains difficult to explain, given the panoply of extraordinary powers available to the Government under martial law, given the Government's figures of a minimum of 50,000 individuals detained since the declaration of martial law, and given the brutal methods of interrogators, is the fact that not one of the key martial law cases charging rebellion and/or conspiracy to commit rebellion has been brought to a conclusion, nor has the martial law administration provided convincing evidence publicly against any of the individuals detained.

Thus, in the 4 years since the declaration of martial law, avowedly for the purpose of suppressing rebellion, the Government of the Philippines has failed to establish the legal culpability of any individual in the central cases of alleged rebellion.

In the meantime, thousands of individuals remain in military detention centers with no guarantees of their rights other than those which the executive and military authorities may wish to concede. Since the departure of the mission, Amnesty International has received continuing reports of arrests and cases of torture.

One such case is that of Dr. Roger Posadas, an internationally known physicist specializing in general relativity theory, a former Rockefeller Foundation Fellow in the United States and former chairman of the Department of Physics at the University of Manila. Arrested early this year, Dr. Posadas was reportedly beaten during interrogation at a safe house, where he was held incommunicado for more than 2 months before being transferred to Bicutan Detention Center. The case of Dr. Posadas and his wife, who was also mistreated, has been added to this report as appendix III.

It should be noted that high officials of the Philippine Government have known of the nature of the basic findings of the mission since December 5, 1975. On that final day of the mission, Mr. Huang and

I made a verbal interim report of our findings and recommendations at a meeting arranged by the Department of National Defense.

Those present at that meeting, which was chaired by the Secretary of National Defense, included both Under Secretaries of National Defense, the Solicitor General, the commanding generals of the Philippines Constabulary, the Philippines Army, and military intelligence, and Colonel Diego of the National Intelligence Service Authority. We agreed to a request that the proceedings of the meeting be tape-recorded.

On May 24, 1976, the Amnesty International official report was sent to the Philippine Government. In view of the deeply troubling nature of the mission's findings, Amnesty International asked that the government give urgent attention to the implementation of the recommendations contained in the report. It should be noted that the recommendations in the report confirm the verbal interim findings and recommendations made by the mission last December 5.

Among Amnesty International's recommendations to the Government of the Philippines are the following:

That the government institute immediate and full inquiries into the cases of all the prisoners listed in this report as having been subjected to torture. Evidence of torture in individual cases should be judged by open commissions of inquiry. These should consist of people who can be accepted as fully independent, to insure objectivity in their findings.

That the government institute full inquiries into the record and activities of all the 88 officers listed in this report as having employed torture. This should also take the form of an open and independent commission of inquiry. Similar actions should be taken in the case of other officers against whom allegations of torture are made by prisoners other than those interviewed by the mission.

That all prisoners listed in this report should be released immediately on bail, pending trial.

Amnesty International recommends, in particular, that in every trial where a number of the defendants complain that they have been tortured, all the defendants complain that they have been tortured, all the defendants should be released immediately on bail, pending full and open investigation of the charges of torture. No statement obtained under duress should be admissible as evidence in court.

That prisoners held on political charges should be tried by the civil courts following constitutional procedures, and not by military tribunals.

That the prisoners should have immediate and free access to their lawyers following their arrest. This is as a safeguard against the ill-treatment and to insure that statements of prisoners are given freely and not as a result of coercion.

That the right of application for the writ of habeas corpus, denied under martial law, should be re-established without delay.

That the practice of taking prisoners to unidentified places of interrogation known as "safe houses" should be discontinued immediately.

That in accordance with the United Nations Declaration on Torture, the Government adopt and publish a code for the treatment of prisoners, providing redress and compensation for those who have been tortured.

Although the Government has known of the mission's basic findings for more than 9 months, and has been in possession of our final report for more than 3 months, Amnesty International has still not received an official substantive response from authorities in the Philippines.

When a response is received, Amnesty International will be more than willing to publicize it.

Through unofficial sources, we have received reports of the release of a number of detainees among the 107 we interviewed, and for that we are grateful.

In addition, on June 16, 1976, the Associated Press reported from Manila that Mr. Carmelo Barbero, Philippines Under Secretary of Defense, had ordered a court martial for a dozen military men on charges of having tortured martial law detainees.

The AP report further stated that the action followed the Amnesty International Mission report: That the investigations had been ordered by President Marcos, and that prima facie cases against the accused military men had been established.

We look forward to the Government's official response on these matters. As yet, for example, we have been able to confirm only four military men as having been brought before military courts on charges of mistreatment of prisoners.

I learned this morning that those four men went on trial in court martial.

On the other hand, a pattern of wide-scale arrests, involving large numbers of people, has continued, and, as indicated above, there have been continuing reports of torture and the use of safe houses.

I recently learned the Government also announced they are going to end the use of safe houses. We will be monitoring that very closely.

Unhappily, there is as yet no substantial evidence to contradict or alter the basic conclusions of this report:

The evidence establishes a consistent pattern of gross violations of internationally recognized human rights, including systematic and severe torture, and cruel, inhuman and degrading treatment during the interrogation process; indefinite detention, in many cases for several years, without being informed of the charges and without trial of the issues; a systematic denial of the right to bail on the grounds that suspension of the privilege of the writ of habeas corpus suspends the right to bail; and other flagrant violations of the rights which are said to be "enshrined" in the Bill of Rights.

In reality, at least up to the time of the mission to the Philippines, the only rule of law in the Philippines under martial law has been the unchecked power of the executive branch and the military. In reality, the only part of the Constitution in effect has been the so-called "Transitory Provisions" which give the President virtually unlimited power to rule by decree, and which, in effect, make a nullity of "the basic liberties guaranteed to all persons within the country."

In case-after-case, in country-after-country, Amnesty International has found that suspension of the privilege of the writ of habeas corpus—or of analogous procedures designed to provide some outside judicial scrutiny of the legality of detention within a reasonable time after arrest—tends to create "the preconditions of torture." Within 3 years of the suspension of the writ and the declaration of martial law, the Republic of the Philippines, as of the time of the Amnesty International mission, has been transformed from a country with a remarkable constitutional tradition to a system where star chamber methods have been used on a wide scale literally to torture evidence into existence.

The reestablishment of an independent judiciary, and the renewed guarantee of the Great Writ, would reassure those who respect the fine traditions enshrined in the 1953 Philippines Constitution and promised in the new Constitution.

Thank you, Mr. Chairman.

Mr. FRASER. Thank you very much, Mr. Jones.

When you were in the Philippines, did you talk to the Cardinal about the torture question?

Mr. JONES. We did not; no.

Mr. FRASER. We visited the Philippines, it must be 1½ years ago, and one of the statements we heard was that a check on abuse of authority by the Marcos government was implicit in the kinds of people who were serving in some of the top Cabinet spots.

We met, as you did, with a number of these people. They were said to be people of personal integrity and principles.

What was your impression of your interviews with them, particularly when you made a report to many of them after you had completed taking statements from the detainees? What was your impression about this?

Mr. JONES. That is an excellent question.

The Secretary of Defense and President Marcos and the Solicitor General are, by any standards, very impressive individuals as public servants. Attorneys with absolutely top records, all are very, very intelligent men.

I have been amazed throughout this whole mission procedure and followup that these men have not taken swifter action based upon the Amnesty International Report.

At the time of our report, the Secretary of National Defense, Mr. Enrile, indicated that he would not allow torture to take place. He said he himself had been tortured by the Japanese in a prison camp. He was determined to do something about it.

I can only speculate that there may be a division in real power in Manila between some of the people who prefer harder methods and some of the civilian heads of the Government; possibly the hard liners have sufficient power that the Government has been unable to respond.

I fully expected the Government would respond.

Mr. FRASER. Based on the nature of your discussions with them?

Mr. JONES. Based on my impressions of these individuals.

One of the reasons we waited so long to publish these reports is that we thought we would be able to get a very substantial response from the Government. Frankly, I am surprised that we did not.

The check is not working. That is essentially the answer.

These men, I agree with you, are very impressive men, but the check is not working. These people are still imprisoned. Anybody who is caught in opposition to the Marcos regime in any way faces the threat of an indefinite period of prison, possibly torture, if they are caught by any of the units and interrogated by them.

Mr. FRASER. Another general assertion made while we were there was that although there was one-man, martial-law rule, it was not particularly harsh. When we were there, we heard something of torture, but we did not find the opportunities to really identify the extent of it.

We really did not know one way or the other. We were given all kinds of assurances, from the people who were in top positions in the Government, and the few political prisoners we did see were well known and consequently better treated.

What is your own view of that, that this is a less harsh, perhaps more benign type of authoritarian rule?

Mr. JONES. I think I went to the Philippines with perhaps an attitude that that is what I would find. We in Amnesty did not, very frankly, expect to find the level of torture that we found. We were unpleasantly surprised.

I do not think there is anything benign about the system. As I look at it, it is one of the most ruthless and effective one-man systems in existence in the world.

It may be benign in the sense that these men are incredibly charming men who are at the top. There is nothing benign about the fact

that student leaders are still locked up, 4 years after martial law, people who were involved in normal student activities. Nothing is benign about the repression of opposition in the Philippines.

It is a deceptive situation. We have tried to look at the cold facts; I think that this report does. We have tried to present a very, very serious case of gross violations of international recognized human rights.

If there is such a case, this is a classic case of abuse of the rights we value most in this country, to say nothing of freedom of speech and press. The right to pick your own representatives of course, no question of that at this time.

I think that the benign mask is an illusion.

Mr. FRASER. Another thing we heard was that prior to the declaration of martial law, there was increased incidence of unrest, high levels of corruption, and that something was needed to be done in order to deal with this.

Do you have any impressions about that kind of assertion?

Mr. JONES. I heard the same thing, Mr. Chairman. I heard nothing to necessarily contradict that assertion.

My answer would be, they have had 4 years now. It is time for the Philippines to move back, to return to its proud constitutional traditions. Four years is too long, even arguing that there was an emergency situation at that time. I would say the corruption question is not one that I am qualified to speak on. I know that there were, allegedly, problems of disorder, massive numbers of handguns that had been reported to have been confiscated, streets are reported to be safer, and so on.

The trains ran better in Germany. You pay a certain price, perhaps, for a democracy. I think they pay too high a price for their order at this moment.

Mr. FRASER. You refer on page 8 of your statement to the fact that none of the key martial law cases charging rebellion were carried through to their final conclusion. Why is that, do you know?

Mr. JONES. Mr. Chairman, I think that is a very important question. There are only two explanations, it seems to me.

No. 1, the Government simply does not care about international, or even national opinion in terms of justifying its allegations that there were problems of rebellion. It does not feel any need at all to bring these individuals to trial. It does not feel that it needs to.

The other possibility is that the Government does not have any cases.

In the case of Mr. Aquino, former Senator Aquino—who was not tortured, as far as we can tell, although he went through some harrowing events which I will not go into, we have substantial information that virtually everybody involved with him in terms of his household and those surrounding him were tortured, and very severely. Many of them are being held in a maximum security unit at Fort Bonifacio.

So the Government has had every opportunity to get any information it wanted. The cases seem bizarre, to say the least, to us as we analyze them.

I really cannot answer it. It is a mystery, something difficult to explain—if I were an authority in the Philippines, I would certainly bring these people to trial, and make the evidence public, make it as

open as I could, and invite the world press in and show the truth, in civilian courts. Anything short of that would leave people, independent minded people, very skeptical about their claims.

Mr. FRASER. Did you get into the question of press freedom?

Mr. JONES. No; we did not. Obviously, I personally am concerned about it, Amnesty is concerned about it, as part of the Universal Declaration of Human Rights. There apparently is none; we just did not get into it.

Mr. FRASER. No press freedom?

Mr. JONES. None, as far as I can tell. A totally controlled press, a very boring press.

Mr. FRASER. I do not suppose that we have any way of knowing what the status of torture may have been prior to the declaration of martial law. I am assuming, however, that the system of justice was such that torture would not generally have occurred.

How could a country turn around so quickly and engage in the degree of torture that you testified to today.

Mr. JONES. I think, first of all, we had no reports that torture was a major problem in the Philippines prior to martial law. Prisoners who were there that we talked to said that if it occurred, they were isolated incidents when they were fighting against the Huks, or something like that. That was in a war situation.

There were limited cases of torture, not like the degree of torture that we found.

As I said on the last page of my statement, the lack of the writ of habeas corpus and outside judicial scrutiny does create the pre-conditions of torture. The fact that there is a lack of constitutional checks and balances in country after country leads to a situation where the police and the military have an individual under their absolute authority.

The check appears to be necessary, appears to be one of the most fundamental things that holds society together, in terms of keeping a check on its police forces.

I think another complicating factor in the case of the Philippines, you have the military playing a police role, acting as policemen, where police training is supposed to go in one direction and military training really teaches you to deal with an enemy.

To some extent, these prisoners were treated, not like prisoners, but like enemies. The severity of the torture, the incredible sadism of some of the tortures that went on, one has to ask how one human being can do that to another. I would have to say that the fact that the military have not been trained for police roles has to be a contributing cause.

Mr. FRASER. One of the things we heard during our trip was that prior to martial law, the army had been generally well disciplined and free of politics and corruption. Martial law, however, has thrust the army into a role of undertaking some governmental responsibility and one of the effects of that was to introduce corruption into the army itself.

Did that issue arise at all in any of your discussions?

Mr. JONES. One of the shocking results of our interviews, one on which we did not dwell in the report—we gathered a lot of information

which would be interesting for a wide range of purposes, but did not necessarily go to the point of the mission.

One of the facts that recurred was that the military, in many, many cases, confiscated the property of the prisoners involved, anything from their own money and television sets to family businesses.

There were repeated reports of corruption in the military.

I agree, prior to martial law, the Philippines military had a tradition of being trained by some of the finest military men that you could find anywhere, West Point graduates, men of very substantial reputation. Clearly, it has had some corrupting effect, having this power and being unchecked. No question about it.

Mr. FRASER. Was the claim made that there were problems, not necessarily the Huks, some form of insurgency or conflict that threatened the existing structure and provided the justification for the continuation of martial law?

Mr. JONES. The Government obviously has been very concerned. It is called the New People's Army, which is a leftist, Communist-dominated, according to the Government, military group which is reportedly active in the part of the Philippines we were in.

There is a different problem in the south, where they are really fighting a very serious—well, more than a skirmish with the Moslems there. That is a separate question.

The answer to your question, as of today, according to reports from the Philippines, within the last 4 weeks, the Government has claimed that they have broken the back of the New People's Army. They arrested the so-called commander, Dante; they have made a large number of arrests. They made a show of it in late August in Manila.

If there was a justification up to this time, I tend to doubt that they were really that effective or that numerous or that widespread, or that the problem was that great.

If it was really a serious problem that would have justified martial law, the Government in its own words says that it has broken the back of this movement, so I would think that we would look to the Government to take substantial actions now away from the rigors of the current martial law administration. If they are very serious in evolving and moving back toward the constitutional guarantees which they are so proud of, and should be.

Mr. FRASER. My impression is that these kinds of threats, as they describe them, come and go. The Moslem insurgency, for example, has been resolved repeatedly.

Mr. JONES. To me, I was there and did not feel that I had to be afraid to walk the streets at night or go anyplace in the Philippines in terms of the New People's Army.

There may be a group of dissidents, and there probably is. It would be almost inevitable. It is hard to find a country where there is not.

I doubt that they have been the major kind of a problem.

Mr. FRASER. On page 39 of your report, you refer to an American citizen being subjected to severe torture. What is that about?

Mr. JONES. Mr. Chairman, this is a very sensitive case.

August McCormick Lehman, Jr.—Tom Lehman, as he is known in the Philippines—is being held in a maximum security unit, apart from other prisoners. He is an American citizen from Tennessee, a science graduate from Middle Tennessee State University.

He told us—this is a quote:

The authorities agree that they had no charges against me, but they are holding me as a material witness. I am not here by choice. I am hoping for release this Christmas. I am planning to go into business. I have been promised a logging concession in Mindanao.

This is an American, Amnesty International is certain has been subjected to very, very severe torture. We are as certain as we can be, as in the case of any allegation of torture, although we did not learn it from Mr. Lehman directly. The interview with Mr. Lehman was conducted under circumstances with a television camera on us, or movie camera.

We were all convinced that we really did not have a place where we could speak confidentially.

Nevertheless, for all intents and purposes, we are certain he has been brutally tortured. He is reportedly being held in one of the major rebellion cases, a conspiracy to assassinate President Marcos, although I find that hard to believe since, during the time that he was in prison, he was married to the daughter of one of the security men in the Presidential Palace. He was married in that Palace itself.

He sees the head of intelligence on a somewhat regular basis.

My feeling is that this is a case where the U.S. Congress and particularly the executive branch of the American Government, should take a real interest in getting this person out, getting him freed. He is a very pleasant young man who has undergone the most brutal kind of treatment and is still suffering effects from it. I think it is time for the American Government—as an American citizen, I say this—we are concerned in Amnesty International about all of these prisoners and their rights. As an American citizen, even if I am working with Amnesty International, I am affronted to see him in prison there in this so inexclusively vague web of charges.

My feeling, my assumption is that the Government does not want to release him because of what he might be able to tell about what has happened to him. He is held as a kind of a hostage.

I would think that the U.S. Congress and the administration would do well to take an interest in his case and get him out. He has been promised release over and over again.

I do not mean to say that his case is more appealing than all of the others. It is a case that I feel a certain personal involvement with. I have spoken with his father who lives outside of Nashville, an elderly man, 72 years old. His mother is sick. They have been distraught for years about this. He has been in prison for 4 years.

They were contacted at one time by the State Department and told not to make a big fuss about the case because his case might be accelerated, he might be made a scapegoat, might be railroaded.

Some time has passed since then.

I spoke to Mr. Lehman, Sr. before we released this report and before these hearings. He now agrees that it is important to bring his case to the attention of the American Government. An American citizen undergoing this kind of treatment is just outrageous.

The Government has not shown any justification for it.

Mr. FRASER. Has he been charged?

Mr. JONES. He has not been charged at all. He has been told now that he is a material witness. That is the only reason he is being held. They originally said he was involved in one of the assassination plots, however, after, apparently, a great deal of torture, he became one of the key witnesses for the Government.

One reason they may be reluctant to bring these cases out is that all of these people have been tortured, apparently. How are they going to deal with that charge?

They are in a difficult situation.

The best thing the Government could do is declare a widespread amnesty, let Aquino and Tom Lehman out and wash their hands of this imprisonment business and start over again, it seems to me.

Mr. FRASER. I think that the Government and President Marcos is afraid of Aquino.

Mr. JONES. That may be. He is a popular hero, at this point. They could exile him. I am not advocating it, but it does them no good to keep him in prison. They make him more of a martyr.

It does not make any sense politically, in my judgment.

Mr. FRASER. Mr. Smeeton, do you have questions?

Mr. SMEETON. Thank you, Mr. Chairman.

I wonder if you could give us some insights on what is happening on the student front. Prior to the imposition of martial law, I understand that there was a very strong student movement.

Mr. JONES. Essentially it has been all but closed down. Those few students who are brave enough to publish anything or get involved at all have been very quickly detained and arrested, and eventually there have been recurring moments of courage, and then recurring instances of repression so that the movement is essentially dormant, repressed.

There are different issues now. The issue now is martial law itself.

Of course, it is very difficult for anybody to raise it there.

Mr. SMEETON. In that kind of environment, would it be fair to say that the focal point, or the rallying point for vocalizing an active opposition, would be the church?

Mr. JONES. Well, to the extent that there is anybody who still has the ability to speak out, I think a few church leaders still have that ability.

There are a lot of countries where the church retains a certain amount of not invulnerability, but a certain flexibility of action.

The Church has a residual moral authority that it still exercises. The churches are important forces; they are in a number of other countries.

Mr. SMEETON. With respect to the Catholic Church, I read several reports that maybe some of its influence is dissipating, especially in the rural areas. Apparently, some feel that this can be attributed to a rift between the activist members of the church and the old-line bishops and priests who are more traditional in their viewpoints as to how the church should respond to sociopolitical issues.

Mr. JONES. In every country that I had any dealings with—

Mr. SMEETON. You did not get into the rural areas?

Mr. JONES. We have had information, we have heard this is true. It is true of every country that I know about where there are burning social issues. There are fights between liberals and conservatives in the Church. It is true of the Basque country in Spain, and many parts of Latin America.

Mr. SMEETON. Was the question of human rights addressed at the recent Conference of Nonaligned Countries that was held a couple of months ago in Sri Lanka.

Mr. JONES. Not in any substantial fashion that would deal with specific cases that I know of.

Mr. SMEETON. On occasion, in the past, previous Third World conferences have singled out such countries as Chile for alleged human rights abuses. In view of that fact, was anything said about the Philippines?

Mr. JONES. The problem is the Philippines has played a major role in that Conference in the last year or so, and let's face it, international organizations of this kind tend to come down hard on one or two countries at most, then almost by mutual agreement sweep aside all of the violations that all of the rest are engaged in. It is not a forum for which I have great hope of action.

Mr. SMEETON. This is maybe outside of your purview, but I would be interested in getting your comments.

In the past year, President Marcos has been charting a new foreign policy course, and, among other things, has established relations with the People's Republic of China. He also appears to be preparing the ground work to do likewise with the Soviet Union. Almost simultaneously, in the same time frame, he is alining himself with the Third World while declaring his intentions of maintaining his historic relationship with us.

What do you make of all of this? What is the reaction, if any, of the average Filipino to all this maneuvering.

Mr. JONES. You are outside my territory.

Mr. SMEETON. I would just like to hear your observations.

Mr. JONES. I assume all of his actions make good sense in terms of geopolitics as taught at Harvard and the University of Chicago and anyplace you look. I think it makes sense.

I think he is following a course. He is opening doors, widening his contacts, probably at the right time. Certainly, you do not see any intelligent discussion of this question in the Philippines press. It is tight.

Mr. SMEETON. How about in your private conversations with Filipinos?

Mr. JONES. People are so concerned about the human rights situation that they are really not worried about it. Very frankly, the overriding question is the return of democracy for many, many of the individuals that we spoke with.

Foreign policy was not really considered to be the central issue. It is so clearly beyond the reach of anybody but President Marcos and his advisers. People have not been concerned about it.

I certainly did not see any opposition to this direction. There may have been, among military men.

An interesting case—one of the people who was in prison was a former teacher in one of the military academies who was in prison because he had written a thesis advocating the recognition of Red China and this was really the basis for his being imprisoned.

He was in prison for several years. He was finally released. We mentioned it in our report. He was finally released a month or so ago, I am happy to say. That is some indication that at least at one time those ideas were considered enough to put a man in prison.

Mr. SMEETON. You mentioned earlier this New People's Army which apparently is currently rather badly crippled. Given the fact

that this group is Maoist oriented, is the PRC—in view of its new relationship with Marcos—pressuring the guerrillas to lie low, at least for the moment? Any indication of that?

Mr. JONES. Interesting thesis. I could not see—if China was going to strengthen its ties with the Philippines, I could not see why it would be in China's interest to support a ragtag guerrilla army that has no chance of succeeding at all.

I have thought about that question, too. I have not had any indication one way or the other.

Mr. SMEETON. How did you find economic conditions?

Mr. JONES. Obviously, the Philippines is suffering from the raise in the price of oil very substantially.

Mr. SMEETON. I had heard that they were coping with this problem better than a lot of other countries.

Mr. JONES. It depends on whom you talk to. If you talk to people close to decisionmakers, they say it is very difficult. They are dependent on the world price of sugar, as well.

I would be speculating if I said much more about the economic situation other than they are deeply concerned and hopeful that they would find oil in their searches.

Mr. SMEETON. What about the land reform program? There seem to be some solid accomplishments in that area.

Mr. JONES. There are said to be some solid accomplishments. It is said to be one of the most difficult things they have ever done. It is severely criticized by those on the Left. I really did not have a chance to make an objective evaluation of it.

I know that at least one official there claimed that they were working terribly hard on it. It was stepping on some powerful toes. They were determined to go through with it.

Mr. SMEETON. The contention has been made that this program has improved the lot of the average peasant, and that it also improved his human rights situation, among other things.

Mr. JONES. That would be something that I am not an expert on. I have not heard that to be the case.

Certainly, in all of my talks in the Philippines, I did not hear any individual raise this as an example of why things were so good there in terms of human rights. I do not think that that is a serious argument, I really do not.

I do not think, when you have such massive deprivation of human rights that you can seriously argue that the fact that the peasants have a chance for larger plots of land in some instances, means that there has been a substantial tradeoff.

Mr. SMEETON. I have been told that a significant portion of the agrarian population is presently being positively affected by this program.

Mr. JONES. I have heard arguments the other way. I have not seen any of the results. I have not been out there. I could not evaluate either the positive or the negative of that question.

As I say, it does not seem to be an argument that goes to the question of fundamental human rights. Good, if President Marcos is having substantial land reform. Good. We have been taught to think that that is a very positive value. I suspect that it is.

That has nothing to do with the main question of human rights in my judgment.

Mr. SMEETON. The inference is that it was eliminating a serfdom-like situation and thereby markedly improving the basic human rights situation of the average peasant.

Mr. JONES. I do not think that tradeoff kind of argument is something that I am attracted to as an argument.

Mr. SMEETON. Did you get an opportunity to look at the political process, the parties, which ones are allowed, which ones are disallowed?

Mr. JONES. To some extent.

Mr. SMEETON. I am thinking of the People's Councils as a case in point. What role do they play in the political process?

Mr. JONES. It has been so long that I looked at that—the People's Council, as I recall, were essentially hand-picked, pro-Marcos people, essentially, it looked like an administration-controlled institution. It was supposed to have some of the qualities of a representative body. It looked like a fraud, frankly, from the training in democratic theory that I have had.

Mr. SMEETON. How many viable political parties are there?

Mr. JONES. I cannot answer that. I am not sure. The fact is that there is one-man political rule. Whatever the number of political parties may be in name, there is one-man political rule, and no opposition to Marcos, in fact. No effective opposition.

Mr. SMEETON. Thank you, Mr. Chairman.

Mr. FRASER. Has the provision of U.S. military aid to the Government of the Philippines—is there evidence of the aid being utilized by the Philippine army in carrying out martial law?

Mr. JONES. There is no question about that. Even more disturbing, Mr. Chairman, that in fact, at least in one instance, a colonel who was in charge of one of the worst torture centers was not present during our visit there because he was in Panama being trained by the United States in some way. I believe it was Panama.

The United States has played a role in training many of these officers. It is disturbing that they would not have, within their own training, some mechanism which would get officers at the level of lieutenant colonel and colonel to step in and stop treatment of prisoners in this way.

I do not mean to say that Amnesty International has evidence of a link between American training and torture, necessarily. Our American military certainly have not been able to use our influence, which is substantial, as of yet to keep them from torturing prisoners.

A number of these officers were men who had been trained by American units at various times.

Mr. FRASER. Do you think that your report about widespread use of torture in connection with interrogation is the first time that these top officials had heard about it?

Mr. JONES. I have asked myself that question again and again and again. I would like to believe that the three top men that I spoke with, President Marcos, Solicitor General Mendoza and Secretary of Defense Enrile did not know about it beforehand. I cannot believe they did not know about it in a general way.

It is possible to assume a scenario where orders were given, get something done, get some information, and it is just left to people to go out and do it. I know they had heard allegations of brutal treat-

ment in a few cases. I know that they gave orders at various times to look into them.

The people who were given the orders may have been the people in the first place who initiated the interrogation procedures, so that it is possible to conceive a scenario that they did not know.

I certainly have no evidence that they did know. It would shock me beyond belief that they did know in specific detail.

On the other hand, you know, you have a responsibility to some extent to have somebody independent going into procedures when you receive reports of torture. Certainly after our report of December 5, there is no excuse for anybody in the Philippines at a high level not knowing that there is a substantial chance of major problems in terms of torture, and after that, we have continued to receive reports of torture, we have continued receiving reports of the use of safe houses.

At that point, they, at least, are charged with not having acted swiftly enough to prevent a recurrence, if the reports we received are true. Since these reports are so substantially linked to other kinds of information that we have been able to verify, we believe that they are true.

Mr. FRASER. Has this continued up to the present?

Mr. JONES. Up to recently. There were massive arrests in May. There have been arrests in August, reports of torture with medical evidence received during August. It is that late.

Mr. FRASER. August of this year?

Mr. JONES. Yes.

There have been press reports that all sorts of orders have been given now to end the use of safe houses. We have not received any direct reply from the Government on this issue, although we have exchanged communications.

I would like to receive a report from them that they, in fact, are ending the use of safe houses. I think that would be a very substantial first step.

After that, putting responsible men in charge of the interrogation procedure and having an adequate check process. If they follow our recommendations, they can stop it right away, if they want to.

There is hope that they will respond. I hope they are responding because it is wrong, not because they are being clubbed into it somehow by world public opinion.

Mr. FRASER. It is partly the command and control question.

Mr. JONES. Very much.

Mr. FRASER. Anyone who has listened or read about torture has to be familiar with the fact that it is most commonly used in connection with interrogation. It seems to me for the government to run these interrogation centers, or places of interrogation, without any effort to maintain adequate control over the practices followed there, it seems to me it is a reasonably strong case that they have tacitly acquiesced in whatever took place.

Mr. JONES. Right.

Mr. Chairman, I would agree with you that you should be charged with knowing certain basic things about the interrogation process if you are in the position of command. I was trying to answer your

question earlier, giving them the benefit of the doubt to the extent that I could. I find it difficult.

We still have hope that they will take the steps necessary to bring an end to these practices now, and the response will be substantial in terms of a movement back toward the kinds of constitutional guarantees you need to be sure that these kinds of things do not take place.

Mr. FRASER. Did they indicate to you that they would provide information on what actions were taken as a result of your report?

Mr. JONES. It depended on who we talked to, but the people we relied on most at the top did indicate that they would give us an answer to the specific material contained in this report. We have an exchange of letters with Solicitor General Mendoza where we agreed to publish any statement that he may wish to make, a formal statement about this report, about our findings.

We will of course comment at that time.

Mr. FRASER. In any event, one thing that is clear, I assume that the top people must have known that these people had been detained for extended periods of time without being charged, without a trial.

Mr. JONES. No question of that. Everybody had to know that. Of that, there can be no question.

Mr. FRASER. Did you talk to any personnel at the U.S. Embassy about the situation there on human rights?

Mr. JONES. I have spoken to people at the State Department here about it. We did not speak with the Embassy, partially because the mission was going so well, we really did not feel it was necessary to. We did speak to people at the State Department at various times about our concerns in specific cases, and the State Department has been very open with us in our discussions.

Mr. FRASER. Mr. Smeeton.

Mr. SMEETON. One final question.

Did you meet former President Macapagal?

Mr. JONES. No.

Mr. SMEETON. Do you know where he is? Is he within the country?

Mr. JONES. I know he came to the U.S. Embassy and sought asylum and was turned down. I do not know where he is now. I do not think he is detained. He is one of those people that is a little bit invulnerable.

I did not speak with him.

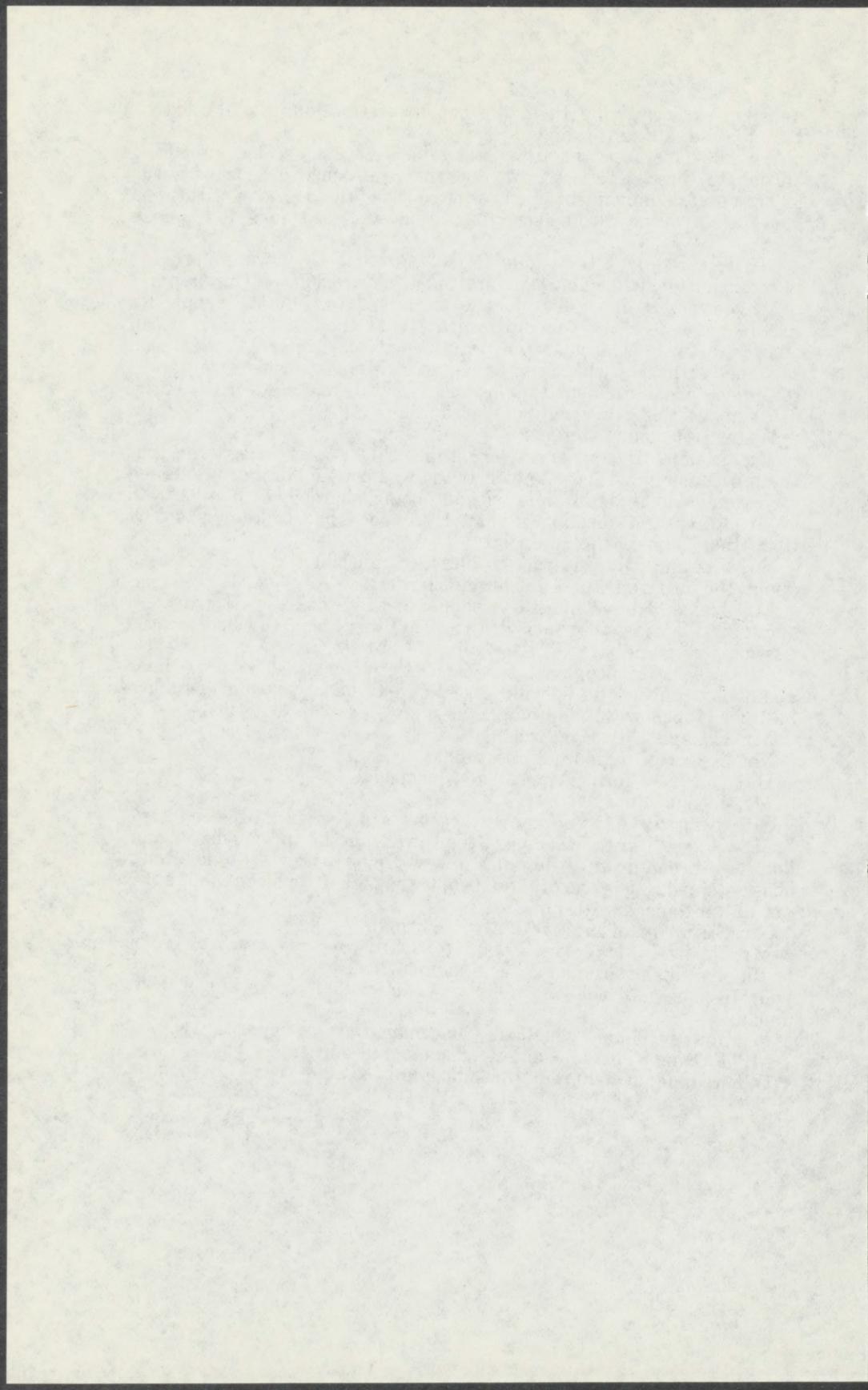
Mr. SMEETON. Thank you, Mr. Chairman.

Mr. FRASER. Mr. Jones, I want to thank you very much for your testimony this afternoon. Your statement has been very helpful and your responses to the questions very direct. We appreciate it very much.

Mr. JONES. Thank you, Mr. Chairman, for the opportunity.

Mr. FRASER. The subcommittee stands adjourned.

[Whereupon, at 3:20 p.m. the subcommittee adjourned.]



APPENDIX

CHAPTER 2 OF REPORT OF AN AMNESTY INTERNATIONAL
MISSION TO THE REPUBLIC OF THE PHILIPPINES, NOVEMBER
22-DECEMBER 5, 1975

2 Conclusions and Recommendations to the Government of the Philippines

1. The mission found convincing evidence that the employment of torture was widespread. Of 107 prisoners interviewed, 71 informed the delegates that they had been tortured.

Amnesty International *recommends* that the government institute immediate and full inquiries into the cases of all the prisoners listed in this report as having been subjected to torture. Evidence of torture in individual cases should be judged by open commissions of inquiry. These should consist of people who can be accepted as fully independent, to ensure objectivity in their findings.

2. The conclusion is unavoidable that torture of prisoners was part of a general approach to the treatment of suspects. This had the effect of intimidating all those arrested on suspicion of having committed political offences.

Amnesty International *recommends* that the government institute full inquiries into the record and activities of all the 88 officers listed in this report as having employed torture. This should also take the form of an open and independent commission of inquiry. Similar action should be taken in the cases of other officers against whom allegations of torture are made by prisoners the mission did not interview.

3. None of the prisoners interviewed had been convicted, although trial proceedings have begun for some of them. The mission asked the Judge Advocate General for transcripts of all proceedings against political offenders which had been concluded in the period of martial law since September 1972. None was made available to the mission. From this and other evidence, it appears probable to Amnesty International that not a single political prisoner detained under martial law had a trial which had been concluded.

Amnesty International *recommends* that all the prisoners listed in this report should be released immediately on bail, pending trial.

4. In cases of prisoners against whom trial proceedings had begun, the mission found that all known cases had been tainted by reliance on so-called evidence extracted from a number of prisoners by torture. The conclusion is unavoid-

able that in those cases the so-called evidence was literally tortured into existence.

Amnesty International *recommends*, in particular, that in every trial where a number of the defendants complain that they have been tortured, all the defendants should be released immediately on bail, pending full and open investigation of the charges of torture. No statement obtained under duress should be admissible as evidence in court.

5. All the cases listed in this report are triable under martial law only by military commissions. These tribunals are staffed entirely by military officers, some of whom have had no legal training. The rules of procedure and evidence employed in trials before these tribunals are not those of civil or normal standards of justice, but instead follow the rules of procedure and evidence of military court martial.

Amnesty International *recommends* that prisoners held on political charges should be tried by the civil courts following constitutional procedures, and not by military tribunals.

Moreover, under martial law, the appeals from these military tribunals end at the Department of National Defense. The power of presidential clemency is the only limitation on military authority.

Amnesty International *recommends* further that all appeals from decisions of courts of first instance should follow the normal judicial appellate process up to the Supreme Court, and not, as at present, with appeals from the military commissions terminating with the decision of the Secretary of National Defense.

6. The mission found that there was clearly a pattern of torture during the period of interrogation immediately following arrest. In many cases, the fact that a prisoner had been detained was concealed from his family and others. The United Nations Standard Minimum Rules for the Treatment of Prisoners are applicable from the time of arrest and throughout the period of detention.

Amnesty International *recommends*, in accordance with the UN Standard Minimum Rules and as safeguard against brutal treatment of prisoners, that the families of prisoners should be notified of their detention, that they should be allowed to visit the prisoners within 72 hours of arrest and that visits should continue on a regular and frequent basis throughout the period of detention.

Amnesty International *recommends* also that the prisoners should have immediate and free access to their lawyers following their arrest. This is as a safeguard against ill-treatment and to ensure that statements of prisoners are given freely and not as a result of coercion.

7. The most effective safeguard for the arbitrary arrest, detention and ill-treatment of the citizen is the right to apply to the courts for the writ of *habeas corpus*.

Amnesty International *recommends* that the right of application for the writ of *habeas corpus*, denied under martial law, should be re-established without delay.

8. The mission found certain patterns of arrest and interrogation procedures.

Typically, prisoners are arrested by military officers often belonging to different units. Following their arrest, they are taken out by particular units for interrogation. Thus, prisoners are taken to the offices of a particular unit or an interrogation center such as Metrocom-2, where they are tortured. They can then be taken by different units to other locations for further interrogation, often accompanied by torture.

Amnesty International *recommends* that all units involved in the arrest and interrogation of prisoners should keep full records of the periods for which particular prisoners are in their care. They should also record the places to which prisoners have been taken while in their care, and all the officers and agents who come into contact with the prisoners.

Amnesty International *recommends* further that the practice of taking prisoners to unidentified places of interrogation known as "safe houses" should be discontinued immediately.

9. All forms of brutal treatment of prisoners are reprehensible. The government should issue instructions explicitly forbidding such torture as "Russian roulette", electric shock, the application of what the prisoners described as "truth serum" and all other forms of brutal treatment. The government should state publicly the penalties for such offences.

Amnesty International *recommends* that in accordance with the United Nations Declaration on Torture (see recommendation 15) the government adopt and publish a code for the treatment of prisoners, providing redress and compensation for those who have been tortured.

Amnesty International *recommends* further that The Philippines government should publicly declare to all officers, agents, doctors and lawyers who come into contact with prisoners that torture is illegal and that it is the duty of all who witness torture to report its occurrence.

10. The mission found that the system of amnesties for which prisoners could apply under martial law in effect deprived prisoners of their civil rights. The application forms (CAD form 72-11) required the prisoners to indicate which kind of offence they had committed, including elaboration of the alleged offences. Most prisoners claimed that they had nothing to say which could incriminate them and were unable to meet these requirements. Many of these requirements were unacceptable to them, since they were in effect required to fabricate self-accusations. Moreover, of those prisoners in the detention centers visited who had applied for individual amnesties, very few applications were known to have been approved.

In the case of a number of prisoners held at Camp Olivas, the mission was given a copy of the instruction from the Secretary of National Defense granting amnesties to seven young detainees. When the mission inquired why those prisoners had not been released despite the instruction, the mission was informed that that order had been countermanded. The mission noted that no further appeal regarding amnesties was possible beyond the Department of National Defense.

Further, the mission requested a list of all political prisoners who had

applied for individual amnesties to the amnesty commission, and as well as details of cases where amnesty had been granted. The list requested was not given to the mission.

Amnesty International *recommends*, in view of failure of the system of individual amnesties, that all prisoners held for more than one year without charge or trial in The Philippines should be granted a presidential amnesty. The government should in the interest of justice institute immediate trial proceedings against those prisoners who are thought to be guilty of criminal acts. The right to open trials in civil courts should be re-instated.

Amnesty International *recommends* that the general presidential amnesty for all prisoners held for more than one year without charge or trial should be granted with minimum delay.

11. The mission found that the conditions for those detained in cell block 2 in Camp Bonifacio as "immigrant/deportation" cases were appalling by any standards. The delegates emphasized that, in the final interview with Secretary of National Defense Juan Ponce Enrile and Solicitor General Estelito P. Mendoza, they had recommended that immediate attention be given to those cases. The delegates acknowledged that these were outside the departmental responsibilities of Mr Enrile and Mr Mendoza. But they requested that the proper authority within The Philippines government should respond quickly to the recommendation.

Amnesty International *recommends* that, apart from immediate alleviation of the appalling conditions for these cases, The Philippines government should seek the cooperation of the United Nations High Commission for Refugees in finding ways to protect these people from further extended periods of detention.

12. The mission had recommended to the Secretary of National Defense that all women held in detention who had young children should be released. This applied in particular to cases where both husband and wife were detained and the young child was also kept in prison. The following cases were known to the mission:

In 5th Constabulary Security Unit (5 CSU) stockade:

Jean Cacayorin Tayag (young child with relatives)

Milagros-Astorga Garcia (child aged seven weeks, born in prison)

Amarylis Hilao (baby aged seven weeks, born in prison)

Zinayda Delica (child aged 3 years, with relatives)

In Camp Olivas female detention center:

Elita Ponce Quinto (child aged five months, born in prison)

Isabelita del Pilar Guillermo (child aged six months, born in prison)

The mission understood that there were administrative provisions for the release of women with young children where both husband and wife were detained, but the mission was unable to secure an adequate explanation for the continued detention of these women prisoners.

Amnesty International *recommends* that the six women prisoners, and others in similar circumstances, should be released forthwith. It also recommends, in all cases involving women prisoners with young children, that the mother should have the choice of whether to keep the child with her.

13. Two prisoners, Mariano Giner, Junior, and Mamerto Yee, who were held in the stockade in Camp Olivas, were kept with criminal prisoners, unlike other political detainees who had been transferred to the male detention center in Camp Olivas.

Amnesty International *recommends* that Mr Giner and Mr Yee, and all other prisoners similarly affected, should be transferred immediately to the appropriate detention center and then treated according to norms applicable to political prisoners.

14. The mission was deeply concerned by the cases of prisoners belonging to the Hilao family. Winifredo Hilao was subjected to extremely brutal torture. So was his brother-in-law, Romeo Enriquez. Winifredo's sisters, Josefina, aged 19, and Amarylis, aged 21, are also prisoners. His wife, Violeta Sevandal, is also a prisoner. His nephew, who was seven weeks old at the time of the mission visit, was in prison with Amarylis. The family firmly believe that their sister, Lilia, who died while in detention, was killed by her interrogators during questioning. The mission was not convinced that sufficient investigations had been undertaken by the authorities to examine the allegation that Lilia Hilao was murdered.

Amnesty International *recommends* that, in view of all the circumstances of the Hilao cases, that an unconditional amnesty should be granted to all the members of the family, and that a full, independent inquiry should be conducted regarding the death of Lilia Hilao.

15. The Philippines government voted in favour of United Nations General Assembly resolution 3452 (XXX) on 9 December 1975, whereby the General Assembly adopted the *Declaration on the protection of all persons from being subjected to torture and other cruel, inhuman or degrading treatment or punishment*.

Amnesty International *recommends* that all necessary steps be taken by The Philippines government to ensure full implementation of the UN declaration.

Amnesty International respectfully submits the above recommendations to the government of The Philippines. We note that The Philippines government had given the visiting delegates access to visit prisoners. In view of the deeply troubling nature of the findings of the mission, we recommend strongly that the above steps be implemented.

Additionally, the mission had requested, and were promised by leading officials of the Department of National Defense, a list of all prisoners detained under martial law, together with details of the charges against each prisoner. The mission noted with regret that they were later told that the list was not forthcoming as promised, because matters of national security were said to be involved. Amnesty International respectfully requests that a complete list

should be made publicly available.

Amnesty International publicly recognizes the spirit of open and constructive dialogue with which the government received the mission. It wishes to place on record its appreciation for the courtesy and assistance given to the mission by President Marcos and leading officials. It should be noted that when the AI delegates initially requested interviews with prisoners, they had not expected to find widespread evidence of torture. In allowing AI to have access to prisoners, The Philippines government had demonstrated to governments in other countries the need to allow delegates of independent international organizations to visit prisoners, in order to ensure that internationally recognized human rights of prisoners are protected.

However it must be stated that although permission to visit prisoners was given by senior officials, the mission encountered problems in seeking interviews with specific prisoners. Furthermore there were difficulties in particular instances in securing confidentiality of interviews. Examples are given in the report.

It is to the credit of The Philippines government that in the past it has announced general amnesties with apparently partial application to limited numbers of political prisoners held without trial. It has conducted investigations into torture allegations, although these apparently failed to uncover the scale of torture, and it has allowed an Amnesty International mission access to interview specific prisoners. But it should be noted at the same time that the evidence of torture was overwhelming, and that it appears that torture was employed systematically in order to intimidate people arrested on suspicion.

Amnesty International wishes to emphasize that it has approached the problem of political imprisonment in The Philippines strictly on the basis of the treatment of prisoners according to due process of law and human rights. The Philippines government takes the position that most of the prisoners interviewed in the report allegedly have been connected with a communist underground movement, and that many allegedly were involved in attempts to commit rebellion or conspiracy to commit rebellion. Those cases therefore lay within the scope of article VII, section 10, paragraph 2 of The Philippines constitution of 1935, which permitted the President to impose martial law "in case of invasion, insurrection, or rebellion, or imminent danger thereof, when the public safety requires it . . ."

Amnesty International is concerned that many of those interviewed who were charged with rebellion or conspiracy to commit rebellion have been tortured. Moreover none of the alleged offences has been proven conclusively in open fair trials. AI, in accordance with its statute, works to abolish torture in all cases, and also works for prisoners of conscience who have been denied fair open trials. We do not wish to pre-judge the degree of truth in the government's allegations that the prisoners are guilty of attempts at rebellion or conspiracy to commit rebellion. We therefore urge the government to present the evidence in open fair trials.

AI's International Executive Committee notes that the delegates had made a number of interim recommendations verbally to The Philippines authorities at a meeting arranged by the Department of National Defense at the end of

their visit. Those present at this meeting, which was chaired by the Secretary of National Defense, included both Under-Secretaries of National Defense, the Solicitor General, the commanding generals of The Philippines constabulary, The Philippines army and of military intelligence and Colonel Diego of the National Intelligence Service Authority. The AI mission agreed when asked if the proceedings of the meeting could be recorded on a tape-machine.

The International Executive Committee notes that the recommendations made in this report confirm the verbal interim recommendations made by the mission at the final meeting. It notes further that AI has not received subsequent communication from the government that any of the interim recommendations have been implemented, although a number of those interim recommendations were apparently acceptable to Secretary of National Defense Juan Ponce Enrile. For example, he instructed his staff to arrange for the prisoners at 5 CSU to be transferred to a regular detention center.

In view of the deeply troubling nature of the findings of the mission, Amnesty International urges the government of The Philippines to implement urgently the recommendations respectfully submitted herewith.

SUMMARY OF REPORT OF AN AMNESTY INTERNATIONAL MISSION TO THE REPUBLIC OF THE PHILIPPINES, NOVEMBER 22-DECEMBER 5, 1975

From 22 November to 5 December, 1975, an Amnesty International mission consisting of Thomas C. Jones, an American attorney, and a member of AI's International Secretariat, Web-Hsien-Huang visited the Republic of the Philippines. The mission sought to examine the problem of detention under martial law and the extent of the violations of internationally recognized human rights. With the permission of President Ferdinand Marcos, the AI mission interviewed government officials and 107 political prisoners.

The mission was organized following reports of extensive human rights violations in the wake of President Marcos' declaration of martial law on September 12, 1971. Since the imposition of martial law, approximately 50,000 persons have been arrested and detained for "crimes of insurrection and rebellion" or related political offenses. By May 1975, 6,000 people remained in detention virtually all held without formal charge or trial.

During the mission, AI delegates held extended meetings with leading officials including: President Ferdinand Marcos; Secretary of National Defense, Juan Ponce Enrile; Solicitor General, Estelito P. Mendoza; Major General Fidel Ramos, Commanding General of the Philippines Constabulary; Guillermo Santos, Judge Advocate General and other senior officials with responsibility for administration of prisons under martial law. AI delegates also interviewed 107 prisoners at eight different detention centers.

The delegates found the facilities employed during the interviews were adequate to ensure confidentiality, except for the 5th Constabulary Security Unit and the Maximum Security Unit at Fort Bonifacio. These interviews were subject to electronic surveillance. The detention centers visited were: 5th Constabulary Security Unit, Quezon City; stockade in Camp Olivas; Youth Rehabilitation Center in Fort Bonifacio and the Zone-2 Division detention cells in Camp Olivas.

The AI mission found a consistent pattern of gross violations of internationally recognized human rights. The violations included: widespread, systematic and severe torture, cruel, inhuman and degrading treatment during the interrogation process; indefinite detention, in many cases for several years, without being informed of the charges and without trial on the issues; a systematic denial of the right to bail on the grounds that suspension of the writ of habeas corpus suspends the right to bail; and other flagrant violations of the rights enshrined in the Philippine Constitution.

AI delegates were particularly concerned by the extent to which martial law detainees were subjected to severe torture. Of the 107 prisoners interviewed, 71 reported in detailed accounts that they had undergone extremely brutal treatment during interrogation. While the mission decided that torture was not routine at all detention centers, the delegates found that a high percentage of detainees were subjected to torture. In examining the cases of detainees spared torture, a pattern developed which suggested that those who had influential friends, connections with highly placed military officers or of foreign citizenship had escaped the brutality. While a lower incidence of torture among women was found, women were not exempt and had been subject to threats of sexual humiliation and intimidation.

Amnesty International determined that:

- torture was part of a general approach to the treatment of suspects, that not one political prisoner detained under martial law had a trial which had been concluded, and that many "confessions" used in trial proceedings were literally tortured into existence....
- amnesties for which prisoners could apply under martial law deprived detainees of their civil rights, particularly the right not to incriminate oneself....
- the suspension of the writ of habeas corpus has tended to create the pre-conditions for torture and has left the civilian population without the benefit of legal recourse...

Given those findings, Amnesty International's recommendations include:

- an open commission of inquiry into allegations of torture
- all prisoners listed in the AI report be released immediately on bail pending trial
- no statements made under duress be admissible as evidence in court
- prisoners held on political charges should be tried by civilian courts following constitutional requirements

Since the AI mission in December 1975, a pattern of wide-scale arrests and torture continues to exist. Regrettably, Amnesty International can not state with confidence that adequate steps have been taken to alleviate the situation of political detainees in the Philippines although interim recommendations were made to the Philippine Government.

