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MILITIA ABUSES IN THE PHILIPPINES*

James D. Ross**

I. Introduction

Under the administration of President Corazon Aquino, Philippine military, police and paramilitary personnel have committed numerous and widespread violations of human rights, including politically-motivated acts of murder and attempted murder, torture and rape. This paper examines one facet of this situation, namely, human rights violations by the Citizen Armed Force Geographical Units (CAFGU), a militia force.

Deployed largely since late 1988, the CAFGU is a militia formally attached to the Armed Forces of the Philippines (AFP). Under government regulations, CAFGU members are recruited, trained and supervised by regular military personnel and subject to the military code. The CAFGU was instituted to replace the discredited Civilian Home Defense Force, an abusive militia organized by President Marcos. Since their introduction, CAFGU units have played an increasing role in the government's counter-insurgency strategy against the armed communist insurgency, the New People's Army (NPA).

Since assuming the presidency of the Philippines in February 1986, Corazon Aquino has taken important steps to reestablish democratic institutions that had been dismantled during the Marcos years. A new constitution enunciating a broad array of protections of basic rights was approved by national plebiscite in 1987. Elections for the Senate and House of Representatives took place in May 1987, followed early in 1988 by elections for provincial and local government posts. The judiciary has re-exerted its independence and press freedom is generally respected by the government.

Intransigent social and economic problems, however, have marred the Aquino administration's overall record. General conditions in the coun-

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tryside remain essentially unchanged from the Marcos years, and the government's land reform program, instituted in 1988, has yet to produce tangible results. Reports of government corruption have plagued the administration and a number of its programs, including land reform. Economic growth has barely kept pace with a rapidly rising population.

Amidst these difficulties, the Aquino administration is burdened by a fractured and rebellious military, a serious communist insurgency and a dormant, but potentially explosive, Muslim secessionist movement. During the first week of December 1989, several thousand military personnel from elite Marine and Scout Ranger units, including some 300 officers, attempted a military coup. This week-long rebellion, the sixth and by far the most serious effort to overthrow the Aquino government, left at least 113 people dead.¹ The coup attempt was led by young Philippine Military Academy officers and is thought to have been financed in large part by Marcos loyalists. Politically, the coup attempt reinforced existing concerns about the military's reliability.

While the government faced military challenges from the right, it has also continued to fight a deeply-entrenched left-wing insurgency. Since 1969, the New People's Army, the armed wing of the Communist Party of the Philippines, has waged a military struggle against the Marcos and Aquino governments.² NPA rebels operate in most of the country's provinces, conducting guerrilla operations in the countryside and "hit squad" assassinations in the cities. NPA guerrilla operations include assaults and ambushes against AFP units and paramilitary groups; the killing and abduction of persons declared to be "enemies of the people," including military personnel and civilians; and armed attacks on public and private economic targets, such as logging concerns, plantations owned by multinational corporations, and road construction projects. Since 1988, the insurgents have suffered setbacks as a result of the government's

1. MANILA CHRONICLE, Mar. 19, 1990.

2. The founding chairman of the CPP, Jose Ma. Sison, says that the NPA operates 60 guerrilla fronts in 65 of the country's 73 provinces. JOSE MA. SISON, *THE PHILIPPINE REVOLUTION: THE LEADER'S VIEW* 164 (1989). See also PHIL. DAILY INQUIRER, Mar. 27, 1989. As of March 1988, the Philippine government estimated that 20% of all *barangays*, the smallest political unit and equivalent to a rural barrio or city neighborhood, were under NPA influence (that is, where at least 50% of local residents are sympathetic to the insurgents). Government of Philippines estimate, cited in RICHARD KESSLER, *REBELLION AND REPRESSION IN THE PHILIPPINES* 56 (1989). For this control, the NPA relies heavily on its "mass base," the NPA's supporters in rural and urban areas who engage in political work, act as informants or, more typically, provide food and shelter to NPA guerrillas. Sison places this mass base at 11 million people. Sison, *supra*, at 163. The total population of the Philippines is approximately 60 million people.

capture of several high-ranking CPP leaders and the negative publicity stemming from NPA abuses against non-combatants and from purges within the NPA ranks.

Human rights abuses by the Philippine military and by paramilitary groups continue to be an important factor in drawing individuals into the NPA. Members of so-called civilian volunteer organizations, commonly known as vigilantes, have been particularly abusive. First organized in Davao City in 1986 with the encouragement of the military, vigilante groups spread throughout the Philippines after the breakdown of the cease-fire between the government and the NPA in early 1987. Vigilante groups have conducted counter-insurgency operations by themselves as well as alongside military units. They have committed numerous acts of killing, torture and illegal arrest against suspected NPA sympathizers, including members of social activist organizations.³

In July 1988, President Aquino responded to these abuses by ordering the dismantling of armed vigilante groups. Since then however, not one major vigilante group has been dismantled and efforts to disarm groups have been ineffectual. Military resistance and inadequate governmental initiative appear to be the primary obstacles to the implementation of this policy. Furthermore, the government has done little to prosecute vigilantes who have committed abuses.

Widespread public concern also focused on the Civilian Home Defense Force, a militia force organized during the Marcos years, whose name became synonymous with brutality. Although the 1987 Constitution and a subsequent executive order called for the dissolution of the CHDF, the military continued to deploy this abusive force in counter-insurgency operations. Beginning in 1987, the government began replacing the CHDF with a new militia to assist the armed forces — the Citizen Armed Force Geographical Unit, known as the CAFGU. This program was fully underway by late 1988.

The CAFGU was designed to replace the CHDF, in lieu of a more costly expansion of the regular army. Explicitly recognizing the abusiveness of the CHDF, the government's CAFGU program was created to develop a militia that would adhere to human rights standards. The program calls for the careful recruitment and screening of CAFGU members, the formalized training of CAFGU recruits, and the supervision of all active duty CAFGU personnel. According to a report by the U.S. State De-

3. See generally, LAWYERS COMMITTEE FOR HUMAN RIGHTS, *VIGILANTES IN THE PHILIPPINES: A THREAT TO DEMOCRATIC RULE* (1988) [hereinafter *VIGILANTES IN THE PHILIPPINES*].

partment, "the ability of the Government to implement policies designed to ensure full respect for human rights by the CAFGU's will largely depend upon the Government's ability to successfully fulfill these screening, training and control functions."⁴

CAFGU militiamen have been involved in numerous serious abuses of human rights. The safeguards designed to keep abusive individuals from joining the CAFGU have been ignored, circumvented and purposely disregarded by the military personnel whose responsibility it is to enforce them. Training of new recruits has been haphazard and inadequate. CAFGU members have committed abuses while under military supervision or while left to operate on their own, often in the company of armed vigilante groups. As with regular military personnel, the government has rarely taken action to prosecute CAFGU militiamen implicated in human rights abuses.

II. Precursors to the CAFGU

The Citizen Armed Force Geographical Unit is the latest in a series of militia organized by the Philippine government since the Second World War. The human rights records of its forerunners are problematic at best; in the case of its immediate predecessor, the Civilian Home Defense Force (CHDF), it is egregious. But past experiences with militia forces have by no means settled the debate over the CAFGU program. Critics of the CAFGUs bolster their argument by pointing to the historical record, particularly that of the CHDF. CAFGU supporters, finding models in Malaysia and Thailand for the use of militia in fighting insurgencies, have sought to show that the lessons of the past are instructive in developing a militia respectful of human rights.

A. *Militia Forces in the Philippines*

Since independence in 1946, the Philippine government has organized various militia forces to maintain control in often hard-to-reach barrios throughout the far-flung archipelago. In the late 1940s the Philippine government created the Civilian Guards to combat the rebellious *Huk-balahap* (the "Huks"), an agrarian Marxist insurgency that grew from guerrilla units that had fought the Japanese occupation. The Huks were defeated in the early 1950s, largely as a result of a counter-insurgency strategy that capitalized on mistakes by the Huks themselves and because

4. U.S. DEP'T ST., CITIZENS' SELF-DEFENSE GROUPS IN THE PHILIPPINES 12 (Apr. 28, 1989).

of social and economic reforms initiated by President Ramon Magsaysay.⁵ In the early years of the campaign against the Huks, the Civilian Guards developed a reputation for brutality in their treatment of the civilian population. Only after President Magsaysay instituted a disciplinary program was there some measure of success in curbing Civilian Guard abuses.⁶

In the 1960s, the government organized the Barrio Self-Defense Units. By the end of the decade, then-President Marcos replaced the Barrio Self-Defense Units with the Integrated Civilian Home Defense Force (ICHDF), organized nationally. In 1976, the ICHDF was enlarged by presidential decree to include the Civilian Home Defense Force (CHDF), which previously had not been under the control of the central government and hence not "integrated." As the NPA insurgency widened and martial law provided additional powers to the military, the CHDF role in maintaining law and order in the countryside similarly expanded, with disastrous results.

B. The Civilian Home Defense Force

The CHDF was designed to serve as an armed civilian force auxiliary to the Philippine Constabulary (PC), the branch of the armed forces that plays the leading role in the military's counter-insurgency efforts.⁷ Under the formal structure of the Armed Forces of the Philippines, recruitment, training and supervision of the CHDF was the responsibility of the PC. In practice there was little control over the militia, whose members typically were distributed weapons and then set loose to combat the insurgents. According to Lt. Col. Victor Corpus, one result of the use of the CHDF as a military force was to provide an easy source of weapons and ammunition for the NPA insurgents.⁸

5. See RICHARD KESSLER, *REBELLION AND REPRESSION IN THE PHILIPPINES* 29-35 (1989); STANLEY KARNOW, *IN OUR IMAGE: AMERICA'S EMPIRE IN THE PHILIPPINES* 346-55 (1989); RAYMOND BONNER, *WALTZING WITH A DICTATOR* 34-38 (1987). For detailed accounts of the Huk rebellion from different perspectives, see BENEDICT KERKVLIT, *THE HUK REBELLION: A STUDY OF PEASANT REVOLT IN THE PHILIPPINES* (1977); and WILLIAM POMEROY, *THE FOREST* (1974).

6. Kessler, *supra* note 5, at 34.

7. The PC evolved from a law enforcement agency established by American colonial authorities in 1901. It subsequently underwent several transformations, including its merger in 1950 with the Armed Forces of the Philippines. In 1975, President Marcos created the Integrated National Police, which was merged with the PC. In January 1991 the Integrated National Police merged with the PC to form the Philippine National Police under the control of the Department of the Interior and Local Government.

8. VICTOR CORPUS, *SILENT WAR* 119-21 (1989).

The CHDF was implicated in numerous human rights abuses during the Marcos years.⁹ One of the most widely publicized cases involved the brutal murder by a CHDF group of an Italian missionary, Father Tullio Favali, in April 1985 in Mindanao. In 1987, eight CHDF members were convicted for the murder of Father Favali and sentenced to life imprisonment.¹⁰ CHDF militiamen under the supervision of the PC were also responsible for the killing of twenty sugar workers and the wounding of twenty-four more during a demonstration at Escalante, Northern Negros province in September 1985.¹¹

The dismantling of the CHDF became an important rallying cry of the opposition to President Marcos. The constitutional commission assembled by President Aquino added a clause in the new constitution that specifically provided for the dissolution of the CHDF.¹² During the period that President Aquino retained legislative powers prior to the first session of the new Congress, she promulgated legislation to give effect to the constitutional proviso. Executive Order No. 275, promulgated in 1987, ordered that "all paramilitary units, including the CHDF, shall be dissolved within one hundred eighty days from the effectivity [sic] of this Executive Order."¹³ The executive order called for the Secretary of National Defense to supervise the dissolution of all paramilitary units and the orderly turn-over of all government properties (such as weapons) in the possession of these units.¹⁴

The military high command's initial response was to assist at least in the reduction, if not the dismantling, of the CHDF, which by 1987 had

9. See LAWYERS COMMITTEE FOR HUMAN RIGHTS, "SALVAGING" DEMOCRACY: HUMAN RIGHTS IN THE PHILIPPINES 32-43 (1985) [hereinafter "SALVAGING" DEMOCRACY]; LAWYERS COMMITTEE FOR HUMAN RIGHTS, THE PHILIPPINES: A COUNTRY IN CRISIS 26-30 (1983); AMNESTY INTERNATIONAL, REPORT OF AN AMNESTY INTERNATIONAL MISSION TO THE REPUBLIC OF THE PHILIPPINES, 11-28 NOVEMBER 1981, (Aug. 1982).

10. See "SALVAGING" DEMOCRACY, *supra* note 9, at 71-72; VIGILANTES IN THE PHILIPPINES, *supra* note 3, at 82. There are only two other convictions of CHDF members for human rights offenses since President Aquino assumed office. In an October 30, 1986 decision upheld by the Supreme Court on November 23, 1988, two CHDF members were convicted for the December 26, 1983 murders of Jose Galope and his son Edgardo Galope, suspected NPA members, in Malaybalay, Bukidnon. See *Philippines v. Desiderio Aliocod and Flaviano Dairo* (Sup. Ct., Nov. 23, 1988). Fearing retribution, the family of the victim in the third case, occurring in Leyte, asked that the case not be publicized.

11. See "SALVAGING" DEMOCRACY, *supra* note 9, at 39-41.

12. "All paramilitary forces including Civilian Home Defense Forces . . . shall be dissolved or, where appropriate, converted into the regular force." PHIL. CONST. art. XVIII, § 24.

13. Exec. Order No. 275 (July 15, 1987). The Executive Order took effect 30 days after the completion of its publication in the Official Gazette. *Id.* § 8.

14. *Id.* § 2.

grown to some 73,000 members.¹⁵ High-ranking military officials concluded that the CHDF had become more of a burden than an asset in fighting the insurgency because the NPA was able to capitalize on the militia's abuses.¹⁶ Even prior to the executive order, then Chief of Staff, Gen. Fidel V. Ramos, removed thousands of militiamen from the ranks of the CHDF. These reportedly included some of the CHDF's most abusive members. As the intensity of the war with the NPA returned to Marcos-era levels, efforts to dismantle the CHDF slowed significantly. Many of the dismissed CHDF members kept their weapons and joined the newly-formed vigilante groups that were being organized throughout the country. In Mindanao, individuals would operate as CHDF members by day and armed Tadtad cultists by night. In Davao City, newly-inducted CHDF members were being trained in weapons use and counter-insurgency tactics to be deployed as the armed component of the *Alsa Masa* vigilante group. By October 1988, nine months after the deadline for their dissolution set by Executive Order No. 275, there were still an estimated 40,000 active CHDF members in the country.¹⁷

Throughout this period, CHDF members remained under the formal command structure of the Philippine Constabulary or the Army, but in practice this command structure was very nebulous. Individual CHDF units might be given a free rein by the military to conduct counter-insurgency activities while other units might be under tight control. Neither approach, however, seemed to prevent the CHDF from committing serious human rights violations or lead to the punishment of CHDF members implicated.

The Philippine military's open resistance to dismantling the CHDF ended with the full-scale implementation of the CAFGU program since mid-1988. Still this process has occurred gradually — generally, individual CHDF units were disbanded only after a CAFGU unit was organized to fill its predecessor's place.

III. Establishment of The CAFGU

In January 1988, General Fidel Ramos, then retiring as Chief of Staff to become National Defense Secretary, announced plans to abolish the CHDF by July 1988 and replace it with a new militia force, the Citizen

15. Kessler, *supra* note 2, at 120.

16. See, e.g., Brig. Gen. Mariano Baccay, Jr., (Far East Broadcasting Co. (Manila) broadcast, Jan. 1, 1989), as reported in FOREIGN BROADCAST INFORMATION SERVICE (FBIS) (Jan. 5, 1989).

17. See Sicam, *CAFGU, Same dog, Different Collar*, MANILA CHRON., Oct. 25, 1988.

Armed Force Geographical Unit.¹⁸ First articulated during the debates over the post-Marcos Philippine Constitution, the CAFGU proposal flourished with the civilian head of the military as its chief proponent.

A. *The Formal Basis*

The CAFGU program has its legal basis in three documents: the Philippine Constitution, Executive Order No. 264 of 1987, and in regulations promulgated by the Department of National Defense. The 1987 Constitution provides for "a citizen armed force which shall undergo military training and serve, as may be provided by law."¹⁹ Article XVIII, the so-called "transitory provision," states: "All paramilitary forces including Civilian Home Defense Forces *not consistent with the citizen armed force established in this Constitution*, shall be dissolved or, where appropriate, converted into the regular force."²⁰ Thus the Constitution's prohibition against paramilitary forces does not on its face proscribe the CAFGU program.

President Aquino, using the legislative powers available to her prior to the convening of the new congress, on July 25, 1987 signed Executive Order No. 264, "Providing for a Citizen Armed Force." The order provides for the establishment of a civilian reserve force, based by territory. Under the executive order, this force is to consist primarily of citizens who have undergone military training, who shall be subject to "mobilization as the need arises," and who, upon being called to active duty, will "serve with the regular troops as part of the standing force."²¹

The primary guiding document for the program is the "Implementing Rules and Regulations to Executive Order Nr. 264 Dated July 25, 1987" (the CAFGU regulations). It was drafted by the Department of National Defense and signed by President Aquino on June 7, 1988. The CAFGU regulations provide for the "development, organization, manning, training, mobilization and utilization of the Citizen Armed Force." They devote significant attention to factors that were often ignored in the organization and deployment of the CHDF, specifically recruitment and screening, training, and military supervision.²²

18. See speech of outgoing Armed Forces Chief of Staff Gen. Fidel V. Ramos, Manila, Jan. 26, 1988.

19. PHIL. CONST. art. XVI, § 4.

20. PHIL. CONST. art. XVIII, § 24 (emphasis added).

21. Exec. Order No. 264, "Providing for a Citizen Armed Force" (July 25, 1987).

22. See generally DEPARTMENT OF NATIONAL DEFENSE, IMPLEMENTING RULES AND REGULATIONS TO EXECUTIVE ORDER NO. 264 DATED JULY 25, 1987 (June 7, 1988) [hereinafter CAFGU REGULATIONS].

The military makes a formal distinction between the CHDF and CAFGUs.²³ Under the regulations, CAFGU members are treated like soldiers and are covered by the articles of war and armed forces regulations. CAFGUs, like CHDF militiamen, are volunteers, but the former lose their civilian status, becoming members of a military organization. As a result, they may be tried by military courts martial. CHDF members were always considered civilians and not subject to armed forces regulations.²⁴

B. The Public Debate

Much of the public discussion over the CAFGU program has concerned the relative advantages of organizing a civilian armed force versus increasing the size of the regular army. The intensity of this debate was heightened both by the poor human rights record of its CHDF predecessor and by military reports of increasing NPA killings in both urban areas and the countryside.

According to the *CAFGU Primer*, prepared by the military, the AFP organized the CAFGU "to provide a base" for the expansion of the AFP in case of imminent threat of invasion, insurrection or rebellion, or war.²⁵ Furthermore, the CAFGU is to assist government forces in the "maintenance of local security, law and order," assist relief efforts during calamities, and "assist in socio-economic development, operation and maintenance of essential government or private utilities in furtherance of over-all mission."²⁶ Despite these multiple functions, Defense Secretary Ramos has stated that the CAFGU will be gradually abolished as soon as all *barangay* have been cleared of NPA insurgents.²⁷

23. Formally, a CAFGU is a reserve unit of the Philippine military organized within a certain locality. This unit consists of soldiers and officers of the regular military and "qualified reservists residing in the locality." CAFGU members are of two basic types. The CAFGU Inactive, which the regulations say make up the "great majority" of CAFGUs, are qualified personnel maintained on an inactive status. The CAFGU Active Auxiliary are volunteers called upon to complement operations of the regular AFP forces in its locality. The latter are the militiamen who in common parlance are known as CAFGU members or, simply, CAFGUs. By a military order promulgated in April 1989, there is a sub-category known as the Special Active Auxiliary, composed of active personnel paid by a private employer.

24. ARMED FORCES OF THE PHILIPPINES, *CAFGU PRIMER* 6 (undated) [hereinafter *CAFGU PRIMER*]; see also *Ask the President* (statement of Chief of Staff Renato de Villa) (Quezon City Radyo ng Bayan broadcast, May 7, 1989), as reported in FBIS 41 (May 10, 1989).

25. *CAFGU PRIMER*, *supra* note 24, § 2.

26. *Id.*

27. *MANILA CHRON.*, Mar. 19, 1990.

The AFP contends that a militia provides a more cost-effective use of resources than would expanding the size of the regular army.²⁸ Secretary Ramos told a Senate committee that the relative low cost of a CAFGU unit compared to a regular AFP unit was a "very major factor" in the decision to establish the militia.²⁹ Department of National Defense sources said the government spends approximately 23 million pesos a year to maintain a regular army battalion (500 to 600 officers and men), while a CAFGU battalion costs only six million pesos a year.³⁰

A primary task of the CAFGU is to assist the military in combatting the NPA. According to the *Primer*, in counter-insurgency operations, the CAFGU "forms part of the territorial forces that help hold and consolidate an area which has been cleared by maneuver or mobile forces."³¹ CAFGUs "are necessary in the HOLD and CONSOLIDATE phases of the new counter-insurgency strategy. Without them, we would tie down a large number of regular AFP for the defense of liberated *barangays*."³²

Armed forces Chief of Staff Gen. Renato de Villa has emphasized tasks the CAFGU can perform that do not require the use of more costly regular army personnel. He stated that CAFGUs could provide a static defense in areas cleared of NPA rebels by regular forces. According to de Villa, "The situation on the ground is that we do not have the numbers to secure the areas we clean up as we go on to chase the enemy. Sooner or later, they return to the communities we liberated. It is a cat-and-mouse game."³³

Some military commanders have stressed the intrinsic value of having soldiers knowledgeable about the communities and terrain in which they are operating. They also note the value of additional forces who can free up regular soldiers from static tasks such as guard duty. In support of the CAFGU, Defense Secretary Ramos has argued that "the best form of community defense is that which comes from the community itself."³⁴

28. CAFGU PRIMER, *supra* note 24, § 21.

29. MANILA CHRON., Sept. 2, 1989.

30. MANILA BULL., Mar. 6, 1989. The CAFGU PRIMER states that the government will spend only about 6,885 pesos per year for every active CAFGU member as compared to 31,560 pesos per year for every regular private in the AFP or patrolman in the Integrated National Police. CAFGU PRIMER, *supra* note 24, § 21.

31. CAFGU PRIMER, *supra* note 24, § 20.

32. *Id.* § 23.

33. PHIL. FREE PRESS, Apr. 1, 1989.

34. PHIL. DAILY GLOBE, Apr. 25, 1989. The U.S. State Department cites two additional reasons given by the Aquino government for the establishment of a new militia rather than enlarging the AFP's regular forces. These are the belief that a militia could be more easily disbanded once the communist insurgency has been defeated, and the desire to involve individual citizens more actively in their own protection and welfare. See U.S. DEP'T ST., *supra* note 4, at 9.

Since their introduction, CAFGUs have played a prominent role in counter-insurgency operations, conducting a myriad of tasks. They have participated in offensive operations, joined military patrols acting as guides, undertaken static defenses in barrios, manned check-points and stood guard duty at government installations and private economic enterprises. Current AFP strategy calls for CAFGU units to "help hold and consolidate an area which has been cleared [of insurgents] by maneuver or mobile forces."³⁵

The extensive use of CAFGUs in combat situations is reflected in the high number of casualties during the past two years. According to AFP Vice Chief of Staff Maj. Gen. Rodolfo Biazon, more than 50 percent of total government casualties in the counter-insurgency campaign in 1990 were CAFGU militiamen.³⁶ According to Philippine Army Chief of Staff, Maj. Gen. Guillermo Flores, "the number of militiamen being killed in the war in Mindanao is increasing and has even surpassed the casualty figures for the regular members of the Armed Forces."³⁷ He further testified that "70% of the encounters in Mindanao are being led by CAFGUs and more of them have been killed than the regular troops."³⁸

Casualties among CAFGU forces have been so high that Maj. Gen. Biazon has criticized military commanders for using the militia in roles intended for the regular army. He said that there had been a reversal of roles, in which the regular forces have become a stationary force and the CAFGU are being sent on protracted patrol missions.³⁹ CAFGU forces placed in difficult combat situations for which they were neither intended nor trained are more likely to commit human rights violations.

35. CAFGU PRIMER, *supra* note 24, § 20.

36. Manila Broadcasting Co. broadcast, June 22, 1990, as reported in FBIS, 58-59 (June 25, 1990); see also MALAYA, May 21, 1990.

37. Testimony of Maj. Gen. Guillermo Flores before Congressional Davide Commission, Apr. 19, 1990, reported in the PHIL. DAILY INQUIRER, Apr. 20, 1990. Half of the patients at the Southern Command Hospital in Zamboanga City are CAFGUs.

38. *Id.* The high number of CAFGU casualties may reflect a number of factors: the use of CAFGUs by the military in high-risk situations, such as in lightly defended outposts or as point-men, casualties resulting from the much shorter training period given CAFGU personnel and their lack of experience, the older and poorer quality weapons generally given CAFGU recruits, and lower quality leadership provided to CAFGU recruits as compared to regular army units. These factors might not only increase the number of CAFGU casualties, but also make CAFGU units more likely targets of attack by NPA or MNLF insurgents.

39. Manila Broadcasting Co. broadcast, June 22, 1990, as reported in FBIS 58-59 (June 25, 1990).

Chief of Staff Gen. de Villa stated that one purpose of the CAFGU was to deter the formation of other armed groups, such as vigilantes.⁴⁰ But the CAFGU is explicitly not intended to be a replacement for the vigilante groups, officially-termed "civilian volunteer organizations." From its inception, the CAFGU, along with the police and the Philippine Constabulary, was to be the second tier of a "three-layer force" deployed to combat the insurgency. The first layer consists of "civilian volunteer organizations," while the third layer is the mobile force of the army and other AFP units.⁴¹

In 1988, an executive branch request for appropriations forced the CAFGU debate into the public arena, but the administration's decision to implement the program had been taken without congressional authorization. Initial training and deployment of units took place months before Congress authorized funds. Approximately 264 million pesos was reportedly taken from the executive branch's discretionary fund to get the program underway after the promulgation of the CAFGU regulations.⁴²

In late 1988, the Aquino administration submitted a supplementary budget request of 585 million pesos for the CAFGU. When three senators expressed reservations about the proposed budget at a committee hearing, Secretary Ramos responded that a failure to organize the militia immediately would "prolong the protracted war" against the NPA, adding, "What we need is a war of quick decisions."⁴³ During the debate over the 1989 budget, the Philippine military announced that it wanted to train 80,000 CAFGU militiamen.⁴⁴ As of April 1990, the military reported that there were about 60,000 CAFGUs operating nationwide of a projected 1990 strength of between 70,000 to 75,000.⁴⁵

While Congress approved funding for the CAFGU, the program itself has never been legislated. Senate President Protempore Teofisto Guingona Jr. and Senator Wigberto Tanada, chairman of the Committee on Justice and Human Rights, have introduced an alternative program for a citizen armed force, which differs substantially from the program being imple-

40. Quezon City Radyo ng Bayan broadcast, Dec. 9, 1988, as reported in FBIS 55 (Dec. 9, 1988).

41. MANILA BULL., Apr. 26, 1988.

42. MANILA STANDARD, Nov. 21, 1988.

43. MANILA CHRON., Dec. 13, 1988.

44. PHIL. DAILY GLOBE, Feb. 2, 1989. *Ask the President*, (Quezon City Radyo ng Bayan broadcast, May 7, 1989) as reported in FBIS, May 10, 1989, at 41.

45. MANILA TIMES, May 20, 1990. In its budget request for 1990, the military had set CAFGU strength at 62,000.

mented. For example, it does not envision the use of civilian armed force members in counter-insurgency activities.⁴⁶ To date, this bill has not made significant progress through the legislature.

Congress authorized funding for the CAFGU over several constitutional objections to the program. First, the constitutional proviso permitting a Citizen's Armed Force when "provided by law"⁴⁷ invalidates the CAFGU regulations, which were promulgated by the Aquino administration in June 1988 without the passage of an enabling law.⁴⁸ Second, as noted above, the recruitment and training of civilian volunteers was well underway before Congress budgeted funds to the program.⁴⁹ Third, Executive Order No. 264 was so vague that it delegated too much power to the National Defense Secretary for the implementation of the CAFGU program.⁵⁰ Fourth, Executive Order No. 264 permits the executive to call up reservists any time in the future without the authorization of Congress, in violation of Congress's constitutional power to enact legislation.⁵¹

Congress may have relied on some of these constitutional objections in deciding to reduce the government's request for funding, although the demands of a tight budget may have been determinative. None of these arguments has been tested in the courts, although opponents of the program have privately considered doing so. For the time being at least, the continuation of the CAFGU program appears settled both politically and as a matter of law.

IV. Recruitment and Screening of CAFGUs

The debate over the recruitment and screening of CAFGU personnel has been sharpened by an awareness of the widespread lawlessness of the CHDF militia. CHDF recruitment requirements had not been stringent and acceptance rarely required more than the approval of the applicant's *barangay* captain. Virtually any aspirant to the CHDF who was not considered politically suspect by the local authorities could get a weapon,

46. See Senate Bill No. 845.

47. PHIL. CONST. art. XVI, § 4.

48. MANILA CHRON., Nov. 2, 1988.

49. *Id.* See also, *About time we do away with CAFGU*, MANILA CHRON., Apr. 28, 1989. In January 1989, National Defense Secretary Ramos announced that 986 CAFGU companies had been organized in 1988 — clearly an exaggeration but evidence that the program was fully under way at the time of the budget debate.

50. EVENING STAR, Oct. 15, 1988.

51. For a fuller constitutional analysis of the basis of the CAFGU program, see Rene Sarmiento, "On CAFGUs," *ConCom Spirit* of 1986, June 12, 1989.

the most difficult requirement being a willingness to join patrols into NPA-controlled territory. The ranks of the CHDF included criminals, ex-convicts, members of violent quasi-religious sects and the bodyguards of powerful politicians and landowners — as well as law-abiding individuals who found new power carrying a weapon. Those who had been rejected by the regular army because of their background, or who wanted an army life without its discipline, were especially likely to join.⁵²

While a number of factors contributed to the abusiveness of the CHDF, the military's failure to implement an effective recruitment and screening policy was among the most important. The Philippine government has made standardized recruitment and screening procedures an integral part of the CAFGU program. These procedures — and their effectiveness in practice — are addressed in this section.

A. Formal Requirements

Under the 1987 CAFGU regulations, the Department of National Defense provided a set of qualifications and disqualifications for acceptance into the CAFGU. Those eligible for the militia include graduates of Citizen Military Training (a mandated high school training program) who have been issued orders as reservists, graduates of basic military training, and honorably discharged ex-servicemen.⁵³

In areas where there is "an insufficient number of reservists" for active duty, the AFP will screen qualified and able-bodied male citizens from the area and provide CAFGU training. As qualified reservists, they then are eligible for induction.⁵⁴ This exception is significant because it extends recruitment to individuals who previously have had no military training. It is also likely to be applied in remote areas where military activity is greatest, putting such recruits in the most difficult situations.

The regulations provide for certain disqualifications from militia service. Individuals are disqualified for being "physically and mentally unfit," presently residing abroad, having been convicted of criminal offenses, or having "derogatory records."⁵⁵ These terms are not defined in the CAFGU regulations, which state only that the qualification standards are to be prescribed in an "AFP circular."

52. See "SALVAGING" DEMOCRACY, *supra* note 9, at 34-35.

53. See CAFGU REGULATIONS, *supra* note 22, § 2(f). Also eligible are recognized World War II guerrillas with honorable discharges, officers under Affiliated Reserve Category, National Defense College of the Philippines graduates and officers in present AFP rosters. *Id.*

54. *Id.* § 9.

55. *Id.* § 7.

The *CAFGU Primer*, which is meant to provide basic guidance on the program, has looser standards. It does not disqualify applicants with “derogatory records,” but only for having a “criminal record.” Individuals with derogatory or abusive backgrounds — but who have no criminal record — can legitimately be inducted into the CAFGU based on the qualifications set out in the *Primer*.⁵⁶ The AFP circular mentioned in the CAFGU regulations,⁵⁷ which provides “the operational guidelines for the development, organization, manning and utilization of CAFGUs,” also contains no prohibition against recruiting individuals with “derogatory records.”⁵⁸ Given the paucity of convictions for human rights offenses in the Philippines, this is a serious loophole.

As volunteers, CAFGUs receive no compensation for their services except medical benefits and the small military food allowance provided regular soldiers. AFP Vice Chief of Staff Maj. Gen. Rodolfo Biazon has stated that militiamen should have regular jobs because the government only provides meal allowances.⁵⁹ However, there is no employment requirement in the regulations. CAFGUs are reportedly required to have an alternative source of income in some areas, and it was not possible to verify whether such a requirement was being enforced.⁶⁰

B. Recruitment and Screening in Practice

There are troubling gaps in CAFGU recruitment and screening practices, as these are undertaken by the AFP. Many of the problems appear to result from ineffectual enforcement of existing CAFGU regulations. These include lax background checks on applicants, recruitment by group instead of by individual, and forced recruitment. More disturbing are

56. See CAFGU PRIMER, *supra* note 24, § 8.

57. Letter of Instruction (LOI) 16-88 (Tanggol-Bayan Bravo) (July 16, 1988).

58. LOI 16-88 lists the following CAFGU qualifications:

- a. volunteer reservists
- b. reservists who are law-abiding citizens to include retired officers and EP [enlisted personnel]
- c. bona fide residents of the community
- d. sound mind and body
- e. physically fit for combat duty
- f. unquestionable loyalty to the Republic
- g. no criminal record

59. Manila Broadcasting Co. broadcast, June 22, 1990, as reported in FBIS 59 (June 25, 1990).

60. Lawyers Committee for Human Rights interview with Gen. (ret.) Jesus Hermosa, in Cebu (Aug. 29, 1989).

recruitment practices where supervising military personnel negligently or knowingly recruit individuals with records of abuse, including criminals and ex-convicts, vigilante group members and leaders, and unqualified CHDF personnel. Lastly, there are recruitment practices wholly within the letter of the regulations but which are likely to lead to serious human rights violations.

1. General Practices

The procedure for joining the CAFGU appears to vary from one locality to the next. In many areas, approval from the local military detachment is all that is necessary to join. In others, applicants are required to obtain some kind of recommendation, most often from a *barangay* captain or a local civilian official, such as the mayor. In parts of Agusan del Sur province, candidates in a particular *barangay* are placed on a stage, where their membership is voted on by local residents.⁶¹ Often recruitment procedures are mere formalities, such as in Northern Samar where clearance can be had from a local official for the ten peso government tax for an official receipt. The regulations provide for applicants to be mentally as well as physically fit, but there is no evidence that mental fitness for duty is being checked seriously.

Because basic recruitment policies are not standardized and are often very informal, government oversight of recruitment practices is difficult if not impossible. This has proven especially true for local officials who seek to keep track of newly-inducted CAFGU members. The regulations provide that the Peace and Order Councils in cities and towns "shall be consulted in the screening of volunteers to the CAA [CAFGU Active Auxiliaries]."⁶² According to a priest in Zamboanga del Sur, mayors in the region expressed concern that the military was keeping them in the dark about recruitment practices and were not sure whether there were established procedures.⁶³ According to a press report, in March 1989 President Aquino herself relayed the concerns expressed by a group of mayors from across the country that recruits were being admitted without the input of the Peace and Order Councils.⁶⁴ In Samar, a local government official believed that vague recruitment procedures made it easier for the

61. See Statement of Rep. Pedro Romualdo, *Hearings of the House Committees on Human Rights, Local Government and National Defense*, Mar. 14, 1989.

62. CAFGU REGULATIONS, *supra* note 22, § 12.

63. Interview by Lawyers Committee for Human Rights, in Pagadian City (Aug. 29, 1989).

64. See MALAYA, Mar. 1, 1989.

military to circumvent “uncooperative” civilian officials.⁶⁵ Furthermore, all records and lists of CAFGU members are kept with the local military unit;⁶⁶ unless the government official is in the good graces of the local military commanders, access to such records can effectively be barred.

The government’s image of the CAFGU militiaman as a “part-time” soldier ignores the realities of barrio life in the Philippines today. *The Manila Chronicle* provided a detailed account of the formation of a CAFGU company in Brooke’s Point on Palawan island.⁶⁷ Brooke’s Point has seen little NPA activity, but the town and its AFP installations have been harassed by rebels from the Muslim secessionist Moro National Liberation Front. Most of the recruits interviewed for the story said they were former members of the Bantay Bayan or teenagers who were no longer attending school.⁶⁸

For those at Brooke’s Point, being a CAFGU was viewed as a status symbol and the firearms with which they were entrusted were their “symbol of authority.” But the reason many joined tended to be more mundane: few of the volunteers had permanent jobs and instead viewed their militia duties as their only steady source of income. As a result of underemployment in the area, the military had little trouble recruiting enough people to fill the company.⁶⁹ Likewise, recruits in Mexico, Pangasinana province, cited unemployment as a primary reason for joining the newly-organized militia. “I don’t have a job,” said Melchor Sembillo, 21, “that’s why I joined the CAFGUs.”⁷⁰

2. Screening

Screening procedures have largely been ineffectual in preventing unqualified individuals from joining CAFGU units. Among those accepted into the CAFGUs by the military — sometimes over the objections of civilian officials — have been neighborhood thugs, individuals with criminal records and CHDF and vigilante group members with abusive backgrounds. Some of these new militiamen have already been implicated in human rights abuses.

Known ex-convicts, local toughs and “goons” of politicians have been inducted into the CAFGU in a number of areas. After the killing of two

65. Interview by Lawyers Committee for Human Rights, in Catarman (Sept. 3, 1989).

66. CAFGU REGULATIONS, *supra* note 22, § 8.

67. See Mogato, *War Just Another Job for These Fighters*, MANILA CHRON., Feb. 12, 1989.

68. *Id.*

69. *Id.*

70. *Inside the CAFGU*, MANILA STANDARD, Nov. 21, 1988.

peasant activists in Kalinga province on January 27, 1989 by CAFGU militiamen, Representative William Claver called for the immediate halt of the program in the province, stating that most of the recruits "tend to be abusive and undisciplined."⁷¹ Fernando Delantar, who was among those implicated in the June 16, 1989 murder of Andres Doncillo, 35, in Cebu City, was accepted into the CAFGU although he was known locally to have an abusive past. He had been implicated in but never arrested for the 1986 burning of several houses in *barangay* Pardo, Cebu. In recent years he was often seen carrying an M-16 assault rifle, and residents believe he formerly was a Tadtad vigilante. A neighbor of Doncillo, whose husband was himself threatened by Delantar on the day of the killing, said of Delantar: "He was notorious, making threats with firearms, taking shots and scaring the people."⁷²

Official screening procedures have not prevented the induction of many former and current vigilante group members into the CAFGU. The fact of the poor human rights records of many vigilante groups urges caution in the recruitment of ex-vigilantes, even when such individuals have not personally been implicated in human rights abuses. Individuals known to have carried unlicensed firearms as members of vigilante groups, or engaged in other activities demonstrating a "derogatory record,"⁷³ should be prevented from serving in the CAFGU.

A more persistent problem is the recruitment of active vigilantes into the CAFGU. In a number of areas, it was reported that many if not most CAFGU militiamen are also members of vigilante groups. This enables local military detachments to continue providing military weaponry to vigilante groups, thereby lending support for vigilante activities. Visayas Command Chief, Brig. Gen. Orlando Antonio, supports the induction of vigilantes into the CAFGUs. He explains, "If they [vigilantes] become CAFGU members, the military will have control over them."⁷⁴ In fact, the result is that the vigilante groups gain greater firepower and legitimacy at a time when the official policy is to dismantle them.

CAFGU membership has not been limited to the rank and file of the vigilante groups, but has included some well-known vigilante leaders. The head of *Alsa Masa* in Toledo City, Cebu, reportedly joined the CAFGU, as did the *Alsa Masa* chairman in Laperla, Northern Samar. During a

71. MANILA BULL., Jan. 31, 1989; MANILA CHRON., Feb. 4, 1989.

72. Interview by Lawyers Committee for Human Rights, in Cebu City (Aug. 26, 1989).

73. See CAFGU REGULATIONS, *supra* note 22, § 7.

74. SUN STAR DAILY, May 5, 1989.

visit to Negros Occidental, Baldomero Lopez, a leader of the vigilante group Power Spirit-*Alsa Masa* and a CAFGU member, was seen in the company of the Deputy Chief of Police of Himamaylan town and a number of CAFGUs. Lopez is wanted for several counts of arson and the August 9, 1987 murder of six members of the Basic Christian Communities in Mahalang, Himamaylan. The bodies of the six had been found covered with stab and hack wounds.⁷⁵

The military has adopted the practice of accepting former CHDF members who are likely to be on NPA "hit lists" as a way of affording them protection from retribution.⁷⁶ According to Gen. Calupig, who confirmed this practice, those who fit this category are the CHDF militiamen who were "most effective in fighting the insurgents."⁷⁷ But it would appear that this open-door policy will permit the wide acceptance of the most abusive CHDF members into the CAFGU, who are also likely to be on NPA hit lists, as well as those thought to be the most "effective" soldiers. The danger of this policy is highlighted by the inability of the government to bring criminal charges against CHDF members implicated in past human rights abuses.

Former NPA insurgents, called "surrendered," have commonly been accepted into the CAFGU. For instance, a military officer in Cagayan province testified before Congress that "most of the CAFGU in the army have been rebel surrendereds and also CHDF."⁷⁸ This would appear to be in violation of CAFGU regulations prohibiting membership to those with "derogatory records,"⁷⁹ and the AFP circular and *CAFGU Primer*, which require recruits to be "of unquestionable loyalty to the Republic."⁸⁰ The rationale for the inclusion of rebel surrendereds, who often keep the weapons they ostensibly surrendered, is that they need the protection provided by CAFGU duty and that their knowledge of the local NPA can be especially useful in military operations. Their deployment, however,

75. See VIGILANTES IN THE PHILIPPINES, *supra* note 3, at 50-51. Lopez was reportedly visiting the police headquarters in August 1989 seeking an "amicable settlement" with the families of the murder victims.

76. See U.S. DEP'T ST., *supra* note 4, at 8. See also *Inside the CAFGU*, MANILA STANDARD, Nov. 21, 1988, where this practice is described in Pampanga province.

77. Lawyers Committee for Human Rights interview with Gen. Calupig, in Pagadian City (Aug. 30, 1989).

78. Testimony of Brig. Gen. Pedro Sistoza, before the House Committees on Human Rights, Local Government and National Defense, Mar. 14, 1989.

79. CAFGU REGULATIONS, *supra* note 22, at § 5.

80. *CAFGU Primer*, *supra* note 24, at § 8.

raises serious concerns about their commitment to law and order and the likelihood that they might use their weapons to settle vendettas.

3. Blanket Recruitment

The CAFGU regulations, containing qualifications and disqualifications for militia service, clearly envision a case-by-case screening of applicants. Yet there have been many reports of the wholesale incorporation of certain groups into the CAFGU, particularly vigilante groups and CHDF detachments. This is troubling not simply because the regular screening procedures are being ignored, but also because the groups absorbed into the CAFGU have poor human rights records.

The conversion of the Philippine Constabulary Forward Command (PCFC) is the military's most open attempt to absorb a group into the CAFGU. Its name notwithstanding, the PCFC is not a formal sub-unit of the Philippine Constabulary, but a privately-supported armed vigilante organization. It was created under the direction of PC provincial commander Col. Miguel Coronel and with the financial support of sugar planters in Negros.⁸¹

The military has pressed local governments to accept the *en masse* recruitment of the PCFC into the Special CAFGU, where they receive salaries from their private employers. In practice, the supervision of Special CAFGUs lies with the employer and not the military. When questioned about CAFGU discipline, one sugar planter told a journalist, "One grave mistake, he's out. We are very harsh with abusive CAFGUs. We never allow abuses to go unpunished."⁸² By leaving discipline to the whims of employers, the government has in effect ceded control over the militia to the private sector.

The decision to "absorb" the PCFC into the CAFGU is especially problematic in light of the group's poor human rights record. PCFC members have been implicated in a number of serious abuses, particularly against members and organizers of the militant National Federation of Sugar Workers (NFSW).

C. Recruitment and Civilian Government Authority

Under the CAFGU regulations, local military commanders have final authority to accept or reject an applicant to the CAFGU. Military officers,

81. See VIGILANTES IN THE PHILIPPINES, *supra* note 3, at 53-5.

82. MANILA STANDARD, Mar. 13, 1990.

who are generally from outside the area and less aware of local issues, may choose CAFGU members who are unacceptable to civilian officials. Local government officials have expressed concern that they lack a real say in CAFGU recruitment and thus have little control over the armed men patrolling their streets. Military officials can recruit CAFGU members beholden to them at the expense of civil authority.

According to the CAFGU regulations, city and municipal Peace and Order Councils "shall be consulted in the screening of volunteers" to the active CAFGU.⁸³ Consultation through local Peace and Order Councils, which coordinate counter-insurgency and the anti-crime activities of the military, police, civilian officials and the private sector, is the only formal manner in which civilian officials can influence the recruitment process.

Military officials insist that final recruitment decisions must lie with the local military commander in order to prevent CAFGUs from being used by local politicians as their "private armies." According to military Chief of Staff Manuel Cacanando, "In some areas, mayors insist on putting in their own men, even those with criminal records. The commanders don't like that."⁸⁴ National Defense Secretary Ramos considered the consultative role of the Peace and Order Councils in the screening of recruits to be a demonstration of the principle of civilian supremacy, not a derogation of it.⁸⁵

But a number of local officials disagree. In a meeting between President Aquino and mayors from throughout the country in March 1989, several mayors voiced their concern over their lack of control over the program. Mayor Tomas Osmena, the influential mayor of Cebu City, said that the presence of CAFGUs in urban areas gave rise to rivalries with local police forces. He urged that they be prevented from performing the tasks of the police and that civilian officials have the authority to disarm the CAFGUs.⁸⁶

The personal relationship between military and civilian officials plays a large part in settling recruitment disputes. With respect to recruiting, says Gen. Cacanando, "there is what is called a compromise. . . . It's not all the time that the mayor or the commander wins."⁸⁷ But the arrangement places government officials who are reluctant to deploy

83. CAFGU REGULATIONS, *supra* note 22, § 12.

84. MANILA CHRON., Aug. 13, 1989.

85. MANILA BULL., Nov. 7, 1988.

86. MALAYA, Mar. 1, 1989.

87. MANILA CHRON., Aug. 13, 1989.

CAFGUs at a serious disadvantage and can place great strains on their ties to the local military. Since 1988, Mayor Ernesto Clarete of Plaridel, Misamis Occidental province, has been accused by local military commanders of being an NPA supporter. He believes these accusations stem from his unwillingness to organize a CAFGU detachment in Plaridel, the only municipality in Misamis Occidental without one.

V. CAFGU Training

Military training is another factor that is intended to differentiate the CAFGU from its predecessor, the CHDF. Officially, training for the CHDF was provided by the Philippine Constabulary, but in practice it was minimal and non-standardized. According to Amnesty International, "only limited funds were made available by the armed forces for training [the CHDF], and as the military's use of the CHDF expanded, local 'warlords' — often politicians or plantation owners — provided the funds for uniforms and weapons, and occasionally for training as well."⁸⁸ It was not uncommon for CHDF recruits to be given weapons and hasty instructions in their use, and then issued "mission orders" to defend their community. The CAFGU militia is supposed to differ from the CHDF because of the institution of a standardized training program.

A. Theory and Practice

The CAFGU regulations envision a force made up primarily of individuals with reservist training or who are ex-servicemen.⁸⁹ Included in this category are high school graduates who are assumed to have received Citizen Military Training, a requirement in all Philippine high schools.

An exception to the general rule that CAFGU members are to be trained reservists is "in areas where there is an insufficient number of reservists."⁹⁰ In those areas, the AFP will screen able-bodied male citizens and train them under the AFP's CAFGU Training Program. Afterwards, the trainees "shall be qualified as AFP Reservists and subsequently as CAFGU Active Auxiliaries."⁹¹ In practice, CAFGU units are organized

88. AMNESTY INTERNATIONAL, UNLAWFUL KILLINGS BY MILITARY AND PARAMILITARY FORCES 8 (1988).

89. CAFGU REGULATIONS, *supra* note 22, § 2(f).

90. *Id.* § 9.

91. *Id.*

by company, so all recruits to a particular company are trained together, including reservists and ex-servicemen.⁹²

CAFGU recruits do not receive the full training given to regular AFP personnel. In the words of a CAFGU instructor in Pampanga, the CAFGU training is "a very compressed, specialized version of the basic AFP training."⁹³ The training period called for under the CAFGU Training Program is five weeks or an equivalent of 250 hours.⁹⁴ However, this period appears to vary considerably from area to area. For instance, human rights monitors in Davao City believed that the training period there for some recruits was only twenty days. In Cagayan province, new recruits have received forty-five days of training.⁹⁵

CAFGU recruits are not necessarily adequately trained for the weapons they carry. While Chief of Staff Gen. Renato de Villa stated publicly that CAFGUs were only authorized to carry M-1 Garand rifles and carbines,⁹⁶ CAFGUs have been issued high-powered assault rifles, such as M-14s and M-16 armalites. CAFGU members in Cagayan province, who in March 1990 helped ex-Governor Rodolfo Aguinaldo resist arrest for rebellion, had received various high-powered firearms, including anti-tank rifles, light machine guns and rifle grenades.

One high-ranking military officer stated that CAFGUs did not receive hand grenades. Yet there have been several occasions in which CAFGU members have committed criminal acts with grenades. On August 19, 1989 in a remote *barangay* in Sta. Maria, Davao del Sur, three CAFGU militiamen detailed with the 46th Infantry Battalion attended a late-night disco. According to press accounts, after one refused to pay his bar bill, he threw a grenade into the crowd, which exploded, killing ten people and wounding fifty-five others. The men were initially arrested and Defense Secretary Ramos reportedly relieved the military commander responsible for the three. Six days later, however, the military released a two-page initial report, clearing the three CAFGU members and hinting that the NPA was behind the attack. While the report called for a more thorough investigation by the civilian National Bureau of Investigation

92. The CAFGU regulations provide that reserve units are to receive training at least once every two years, to maintain their proficiency and readiness status. This training is to concentrate on combat and small-unit tactics and to improve command and staff skills. *Id.* § 9.

93. See *Inside the CAFGU*, MANILA STANDARD, Nov. 22, 1988.

94. CAFGU PRIMER, *supra* note 24, § 17.

95. MANILA CHRON., Mar. 18, 1990.

96. Quezon City Radyo ng Bayan broadcast, May 7, 1989, as reported in FBIS 42 (May 10, 1989).

and the military's investigative agency, it nonetheless exonerated the militiamen, concluding that they "have a strong alibi" and that "no one saw the grenade thrower."⁹⁷

B. Compensation and Special CAFGUs

The CAFGU regulations do not provide for government salaries for regular CAFGU members, who are considered volunteers. Those on Active Auxiliary (combat) status receive the military's Basic Subsistence Allowance for food. This allowance is currently set at 30 pesos (\$1.20) a day — 900 pesos (\$36) a month.⁹⁸ In addition, CAFGU members receive insurance, combat clothing, medical care for injuries and sickness incurred in the line of duty, and burial services for death as a result of active duty injuries.⁹⁹ Some military commanders insist that CAFGU members have a visible means of income in addition to the food allowance.¹⁰⁰ This is not a formal policy, however, nor is it necessarily followed in areas where it is supposedly in force.

Lack of suitable pay has long been a source of problems for the various militia forces in the Philippines. For funding local CHDF units, the military commonly sought the support of private sources. This resulted in the blurring of the distinction between what should have been a government militia and what often proved to be a so-called private army. According to Amnesty International, as the military's use of the CHDF expanded, local landowners and businessmen played a greater role in financing the militia: "The result was that in many areas, the CHDF served the dual function of a paramilitary arm of the regular armed forces and of a private army for locally powerful individuals."¹⁰¹

In a similar fashion, local commanders have sought private support for organizing CAFGU companies in their areas. For instance, the CAFGU unit in Mexico, Pampanga, reportedly received money and supplies from a wealthy physician and from a landowner who owns the rice fields in the area. Said a CAFGU trainer, "There are several people who we protect. And now they are supporting the CAFGU financially."¹⁰²

97. See PHIL. DAILY INQUIRER, Aug. 26, 1989.

98. National Budget for 1990, signed into law on Jan. 4, 1990, cited in MANILA CHRON., Jan. 5, 1990.

99. CAFGU REGULATIONS, *supra* note 22, § 15.

100. Lawyers Committee for Human Rights interview with Gen. (ret.) Jesus Hermosa, in Cebu (Aug. 29, 1989).

101. AMNESTY INTERNATIONAL, UNLAWFUL KILLINGS, *supra* note 88, at 8.

102. See *Inside the CAFGU*, MANILA STANDARD, Nov. 22, 1988.

This practice was initially an informal one, without open government approval. In April 1989, the Department of National Defense formalized the arrangement with the promulgation of guidelines for the so-called Special CAFGU Active Auxiliary. The "Special CAFGU guidelines" set out two reasons for instituting the Special CAFGU program. First, budgetary constraints purportedly prevented the AFP from filling the "security vacuum" left by the phasing out of the CHDF. Second, the congressional "budget cut" for the CAFGU program placed the number of recruits below the level set out in the AFP's "campaign plan."¹⁰³

The Special CAFGU guidelines allow business operations to employ armed guards with the legal powers of CAFGU militiamen. The guidelines provide that Special CAFGUs are to be utilized "principally for the defense of business establishments" to deter the imposition of "taxes" imposed by the NPA or the MNLF.¹⁰⁴ They are also to be used for "security of vital facilities, intelligence collection, public information drives and community development activities."¹⁰⁵ The guidelines prohibit Special CAFGUs from being used as "guides, 'cargadores' [porters], personal security of VIP's and the like."¹⁰⁶ Since the guidelines are promulgated by the Department of National Defense, it is the responsibility of the armed forces to enforce them. However, no special mechanisms are set out and it is not known to what extent they have been enforced.

Under the guidelines, Special CAFGU companies are authorized on a "case-by-case" basis.¹⁰⁷ Special CAFGUs must meet regular CAFGU requirements and be employed by "duly accredited business establishments." Furthermore, the Special CAFGU company must be "within the paying jurisdiction of companies or institutions requesting for its activation."¹⁰⁸ Unlike the regulations for regular CAFGUs, no mention is made of consultation by local Peace and Order Councils in the screening and selecting of Special CAFGUs. Rather than being restricted to a specific administrative area, the Special CAFGUs are limited to "within business companies' territorial jurisdiction."¹⁰⁹

103. DEPARTMENT OF NATIONAL DEFENSE, GUIDELINES ON THE SPECIAL CAFGU ACTIVE AUXILIARY (Apr. 4, 1988). It should be noted that the "budget cut" was actually a congressional appropriation lower than the funding level requested by the Aquino administration.

104. *Id.* at 10.

105. *Id.*

106. *Id.* at 14.

107. *Id.* at 2.

108. *Id.* at 3.

109. *Id.* at 4.

The significant distinguishing feature between Special and regular CAFGUs is that the former receive pay from their employer instead of the small AFP food allowance. The private employer supplies clothing, equipment and other support, while weapons and ammunition are supplied by the military. Special CAFGUs are still supposed to be “integrated with the AFP units for operations.”¹¹⁰

The guidelines provide for certain safeguards. “In no instance will Special CAFGUs be allowed to operate independently” from the local security forces.¹¹¹ Furthermore, the Special CAFGUs are to be under the command and control of an AFP unit and “not . . . under the Chief Security or Security Consultant of the company that is to be protected.”¹¹² Nevertheless, they remain company employees — the guidelines state that the Special CAFGUs “are part-time soldiers. They receive pay and allowances from the company institution that hired them, thus their employment and utilization shall be made in a way that their routinary [sic] workload shall not be impaired.”¹¹³

Through the Special CAFGU program, the government is giving its imprimatur to the private armies of politicians, large landowners and business enterprises. Under the guise of acting on the public’s behalf, such forces carry out the agenda of private individuals. Private armies have traditionally been the source of sustained and serious violence in the Philippines. After hundreds of CAFGU members in Cagayan province joined ex-Governor Aguinaldo in his confrontation with the government in March 1990, Negros Occidental PC commander Col. Reynaldo Velasco expressed concern about the “split loyalties” of the Special CAFGUs.¹¹⁴ In the past, the commingling of private security forces and government military or paramilitary forces, either in the form of the CHDF or vigilante groups, has resulted in gross violations of human rights, including killings, “disappearances” and torture.¹¹⁵

Various business interests, which may be the targets of NPA attack, have been implicated in politically-motivated violence against social activists, especially labor and peasant organizers. Through the Special CAFGU program, the government has in effect taken sides in labor disputes and land issues, and must assume responsibility for the resulting human rights

110. *Id.* at 11.

111. *Id.* at 10.

112. *Id.* at 14.

113. *Id.* at 10.

114. MALAYA, Apr. 2, 1990.

115. See, e.g., VIGILANTES IN THE PHILIPPINES, *supra* note 3, at 132-33.

violations. Since January 1989, the National Federation of Sugar Workers has reported five murders of union members, including two local presidents, by persons alleged to be CAFGU members.¹¹⁶

Through the Special CAFGU program, the Philippine government has given its official approval, as well as weapons and training, to units that may act as the private armies of their patrons. In defense of absorbing the PCFC into the CAFGU, Lt. Merced of the 331st PC company told the Bacolod City Council that paying CAFGUs through private sources would actually reduce the number of private armies: "Now you may be able to see that there are individuals having a bodyguard of PCFC. But once these are integrated into the CAFGU they will cease to be there . . . because we might be violating the strict rule of a CAFGU."¹¹⁷ In fact, paying CAFGUs through private sources merely legitimizes the private armies.

In March 1990, in an apparent change of position, Defense Secretary Ramos responded to concerns about the Special CAFGU in Negros Occidental. He ordered the local military to disarm all CAFGU companies being used by sugar planters as private armies and examine the Special CAFGU program. Said Ramos: "We cannot allow anymore the organization of self-defense units that is [sic] not tied up with the military. If we don't control this practice, then, we might as well be a large security agency."¹¹⁸ In April, the Negros Occidental PC provincial commander, Col. Reynaldo Velasco, reiterated that there would be a crackdown on landlord-controlled CAFGUs so they would not develop into the same "monsters" as the CAFGU became in Cagayan province.¹¹⁹ Since then, there has been a significant reduction in the deployment of Special CAFGUs in Negros Occidental.

VI. Supervision of CAFGUs

According to the CAFGU regulations, the Philippine military has supervisory responsibility for all CAFGU units and personnel. There have been many instances where the military has been grossly negligent in its supervision of CAFGUs. There has been a pattern of serious abuse involving regular military and CAFGU personnel operating together, indicating that abusive commanders have been put in charge of CAFGU

116. NFSW-FGT, *The Workers' Voice*, Bacolod City, 9 (Oct 15 - Nov. 15, 1989).

117. Minutes of Sangguniang Panlungsod, Bacolod City, 10 (May 11, 1989).

118. MANILA STANDARD, Mar. 12, 1990.

119. MALAYA, Apr. 2, 1990.

forces and have directed them to participate in human rights violations. CAFGU members operating alone, without the required military control, also have engaged in numerous acts of violence that appear to be politically motivated. Finally, there are many instances where CAFGU members operating alongside vigilante groups, perhaps as members, have committed serious abuses, including murder, beheading and mutilation.

A. The Regulations on Supervision

The executive order establishing the CAFGU calls for militiamen "to serve with the regular troops as part of the standing force."¹²⁰ The CAFGU regulations expand upon this basic directive: "All CAFGU Active Auxiliaries (CAAs) shall be attached to a regular AFP formation in the active force which shall exercise control and supervision over the CAAs concerned as may be prescribed by the Chief of Staff, AFP."¹²¹ In the field, each company of 88 CAFGUs is to be under the command and control of an army officer and 12 non-commissioned officers and enlisted men from the regular military.¹²² The *CAFGU Primer* provides that these military personnel, called "CAFGU cadres," are to receive four weeks of special training.¹²³

The regulations permit wide-ranging roles for the CAFGUs. They may be called upon to give assistance during natural calamities, such as typhoons and fires, or in the case of a war against a foreign power or other national emergency.¹²⁴ In "insurgency-affected areas," CAFGUs may be called upon "to complement AFP regular units."¹²⁵ Area commanders or other appropriate military commanders are to have "primary responsibility" in the administration, supervision and utilization of CAFGU members.¹²⁶

Civilian officials have recognized the importance of adequate supervision of the militia force. For instance, Vice Governor Cascolluela of Negros Occidental, a supporter of the CAFGU program, said, "It is quite

120. Exec. Order No. 264, "Providing for a Citizen Armed Force," (July 25, 1987).

121. CAFGU REGULATIONS, *supra* note 22, § 5.

122. See, e.g., testimony of Col. Sierra before the House Committees on Human Rights, Local Government and National Defense, Mar. 14, 1990.

123. CAFGU PRIMER, *supra* note 24, §§ 17-18.

124. CAFGU REGULATIONS, *supra* note 22, § 6.

125. *Id.*

126. *Id.* § 8. As part of the administration of the CAFGUs, military units must keep a file on all CAFGU reservists and a monthly roster of militiamen to be forwarded to the AFP headquarters in Manila. *Id.*

obvious, the more CAFGUs that are recruited, the more chance of finding undesirables among them. They need to be strictly controlled."¹²⁷ Other local civilian officials expressed concern that unaccompanied CAFGUs would cause problems in their municipalities.¹²⁸

B. Abuses While Under Military Supervision

As the U.S. State Department concludes in a 1989 report to the U.S. Congress, "the ability of the Government to implement policies designed to ensure full respect for human rights by the CAFGUs will largely depend upon the Government's ability to successfully fulfill these screening, training and control functions."¹²⁹ There have been numerous credible reports of human rights violations by CAFGU members acting under military supervision. This raises serious questions as to the standards set for military personnel being put in charge of CAFGU units. CAFGU members, generally far less trained and experienced than their regular military counterparts, require commanders who are especially attentive to human rights concerns.

Whether CAFGU militiamen respect basic human rights depends in great measure on the leadership of supervisory military personnel. Because CAFGUs are not professional soldiers, but part-time soldiers with only minimal training, the demands on military commanders are even greater than they would be with regular troops. The preceding cases raise serious questions regarding the human rights records of regular military personnel placed in command of CAFGUs. This responsibility extends to local military officials and, ultimately, to the military high command and the Philippine government.

C. Inadequate Military Supervision

Most cases of serious CAFGU abuse concern militiamen operating without direct military supervision. That armed CAFGUs are able to operate in this manner reflects both problems inherent in the formal CAFGU structure and inadequate command control by regular military personnel. Politically-motivated acts of violence suggest possible complicity by the military in such attacks.

127. Lawyers Committee for Human Rights interview with Lito Cascolluela, Vice Governor of Negros Occidental, in Bacolod (Aug. 13, 1989).

128. Lawyers Committee for Human Rights interview with Mayor Tomas Osmena, in Cebu (Aug. 28, 1989).

129. U.S. DEP'T ST, *supra* note 4, at 12.

CAFGU members are licensed to carry military weapons and they do so, even when they are not acting under direct military supervision. Unlike the regular soldier, whose job is full-time and who generally lives at a military camp, the CAFGU member typically works part-time and lives at home. As a consequence, a large percentage of a CAFGU company will always be off-duty. The CAFGU regulations are silent on whether militiamen must leave their firearms with the detachment when they go off-duty. The AFP strategy of using militiamen as a static and often unsupported barrio defense emphasizes quick access to their weapons, even when off-duty. Military officers also contend that CAFGUs need to take their weapons home because their service makes them a more likely target of an NPA attack.¹³⁰ Although a military officer stated that the local practice was to have off-duty CAFGUs turn in their weapons, there is no evidence to suggest that this is a consistent requirement.

The result is that off-duty militiamen are armed with military weaponry without military supervision, contravening the intent, if not the letter, of Executive Order No. 264 and the CAFGU regulations. In Bacolod City, a military officer tried to assuage civilian officials who were troubled by this possibility: "I am inviting each and every citizen," he told them, "if you see them [CAFGUs] . . . moonlighting with the firearm, kindly call us in my office and then I will personally apprehend him."¹³¹ This statement betrays greater awareness of the problem than it does of a useful solution.

There are a number of reported cases of human rights abuse in which groups of vigilantes and CAFGU militiamen have operated together. In specific cases, it could not be determined whether the participating CAFGU members were also members of the vigilante groups. Gen. (ret.) Jesus Hermosa stated that CAFGUs are not permitted to be members of vigilante groups. He said that in Cebu this had occurred only in "isolated cases."¹³² However, neither the CAFGU regulations nor the *Primer* provide any discussion of joint membership in the CAFGU and civilian volunteer organizations.

In a number of areas of the country, local human rights monitors reported that it was very common for CAFGU members to simultaneously

130. Lawyers Committee for Human Rights interview with Gen. Ernesto Calupig, in Pagadian City (Aug. 30, 1989).

131. Minutes of Sangguniang Panlungsod, Bacolod City, 7 (May 11, 1989).

132. Lawyers Committee for Human Rights interview with Gen. (ret.) Jesus Hermosa, in Cebu (Aug. 29, 1989).

be members of vigilante groups.¹³³ In Davao City early in 1989, military checkpoints were being manned by combined teams of *Alsa Masa* and the CAFGUs. As a result of reports of harassment, AFP Chief of Staff Gen. Renato de Villa in April 1989 ordered both the CAFGU and *Alsa Masa* off of the checkpoints and replaced them with elite Scout Ranger personnel; the complaints dropped dramatically.¹³⁴

Local military officials are using the formation of CAFGUs to provide military weaponry to vigilante groups. Blurring the distinction between vigilantes and CAFGUs undermines the ostensible structure of the militia to be part of, rather than separate from, the regular army. It also raises doubts about expressed government commitment to disband the vigilante groups.

D. Attacks on Members of Social Activist Groups

Many human rights violations by military and paramilitary personnel have been directed against members of social activist groups that have been dubbed communist-front organizations by the Philippine military and some government officials. These include labor and peasant organizers, student activists, church clergy and lay workers, human rights monitors, lawyers and health workers. According to Amnesty International, "dozens of activists involved in lawful non-governmental organizations" "disappeared" or were killed in 1989.¹³⁵ Others have been tortured in detention or held for long periods without trial. Many more have received death threats, been harassed or have been placed under military surveillance.

In 1989, military and paramilitary personnel were implicated in the killing of four Roman Catholic priests and Protestant ministers.¹³⁶ Since October 1987, six human rights lawyers have been killed under circumstances that to varying degrees suggest military involvement.¹³⁷ Many more have received serious threats. For instance, on May 22, 1990, Solema

133. However, only a small percentage of vigilante groups members are also members of the CAFGU.

134. Lawyers Committee for Human Rights interview, in Davao City (Aug. 10, 1989).

135. AMNESTY INTERNATIONAL, *THE PHILIPPINES: A SUMMARY OF AMNESTY INTERNATIONAL'S CONCERNS* (May 1990).

136. Those killed were Rev. Amando Anosa, UCCP, in Samar; Rev. Zenaido Ruelo, UCCP, in Zamboanga del Sur; Fr. Dionisio Malalay, in Zamboanga del Sur; and Rev. Vizmindia Gran, UCCP, in Misamis Occidental.

137. See generally, LAWYERS COMMITTEE FOR HUMAN RIGHTS & ASIA WATCH, *LAWYERS UNDER FIRE* (1988).

Jubilan, a human rights lawyer in Kidapawan, North Cotabato province, received five separate anonymous phone calls in which she and her family were threatened with death. One caller reportedly said, "The Jubilans will be finished — their end is near — first Sol Jubilan." Prior to these threats, on May 12, 1990, the *Mindanao Cross* newspaper published an account in which an unnamed "Philippine Constabulary Major based in Cotabato province" alleged that an orphanage run by Jubilan was a front for fund-raising activities of the NPA and that some orphans were made to undergo guerrilla training.¹³⁸

Like soldiers and vigilantes, CAFGUs have also engaged in a pattern of attacks against members of social activist groups. In late April 1989, CAFGU members under the supervision of the 301st Infantry Battalion in Negros Occidental and local vigilantes began distributing two "hit lists" naming twenty-four people as communist supporters or members of the NPA. Among those listed were eight priests, including the Emeritus Bishop of Bacolod Antonio Fortich, six nuns and lay church workers, three human rights lawyers, three radio broadcasters, and three labor leaders. One of the lists was signed by the *Masa Kontra Komunista* ("Masses Against Communists"), an organization of which local human rights monitors were not aware. The commander of the 301st Infantry Battalion took no action to halt the distribution of the hit lists. Some of the individuals listed contend that information on the lists could not have been obtained without the knowledge of military intelligence units.¹³⁹

VII. Conclusion

The Philippine government initiated the CAFGU program in 1988 with ready knowledge of the rampant human rights abuses committed by its predecessor, the Civilian Home Defense Force (CHDF). Regulations regarding recruitment, screening, training and supervision of militia members reflected an understanding of the problems posed by a militia force operating in the context of counter-insurgency operations.

Yet, despite official regulations and government assurances, the CAFGUs have committed serious and widespread human rights abuses against suspected NPA supporters and others. The recruitment and screening-in of unqualified and abusive personnel, including former members of the CHDF and the NPA, have undermined the creation of a law-abiding

138. See INTERNATIONAL COMMISSION OF JURISTS, *THE HARASSMENT AND PERSECUTION OF JUDGES AND LAWYERS* 65 (1990).

139. Lawyers Committee for Human Rights interviews, in Bacolod City (Aug. 12-13, 1989).

militia force. CAFGU training has not adequately prepared recruits for the very difficult problems faced in counter-insurgency situations, and has made abuses inevitable. Current deployment of CAFGU personnel in areas where the NPA is active without adequate supervision by regular military forces has resulted in numerous human rights violations. All of these problems have been exacerbated by the close ties often existing between CAFGU members and local vigilante groups.

The Philippine military has sought to distance itself from the criminal actions of the CAFGUs in the field. This is reflected by the general unwillingness of the military to facilitate government investigations of human rights offenses by CAFGU personnel. And while plans are underway to expand the CAFGU force, little attention has been given to addressing the problems the force has created. If the Philippine government is to meet its obligations under international human rights law, exerting control over the CAFGUs and accepting responsibility for their actions are essential.

