

AFFIDAVIT

I, David O'Connor, being first duly sworn, do depose and say: I am an American citizen who has a deep and longstanding interest in promoting friendly relations between the people of the United States and the people of the Philippines. I am concerned, in particular, with the possible adverse effect the export of a nuclear reactor to the Philippines by the U.S. corporation, Westinghouse, will have on those relations. Moreover, I have entered into a long-term contractual agreement with Filipino citizens which could be jeopardized by the export of an unsafe nuclear reactor to the Philippines and any ensuing nuclear accident which might occur.

My profound interest in the Philippines dates back seven years, to my career as a student at Yale University, where I learned Tagalog, a Philippine dialect, and studied the history of U.S.-Philippine relations. Since that time I have continued to do research on the economy and the politics of the Philippines. In March and April of 1978 I had the opportunity to visit the Philippines to conduct a study on the export-oriented manufacturing industries like garments and electronics, which has been published by the Pacific Studies Center (located in Mountain View, California) in its quarterly journal, Pacific Research. I am currently teaching economics at Foothill College in Los Altos Hills, California. I am also finishing a graduate degree in economics at Stanford University. Prior to attending Stanford, I received a master's degree in agricultural economics at the University of Wisconsin at Madison.

I make the following remarks in response to the Nuclear Regulatory Commission's Order dated October 19, 1979, calling for public, written testimony on the issue of the Commission's jurisdiction to examine health, safety and environmental questions arising from the construction and operation of exported reactor facilities. Since this issue has arisen in the context of the proposed export of a Westinghouse 600 MWe, two-loop, pressurized water nuclear reactor to the Philippines, I will cite certain factual evidence pertaining to this specific case. Yet, I contend that the arguments made below, to the effect that the NRC does have jurisdiction over health, safety and environmental issues relating to the Philippine reactor, apply with equal force to reactor exports to other countries in the developing world (for example, South Korea).

1. Concerning jurisdiction. In its Order of October 19, 1979, the NRC asks if its health, safety or environmental review of export license applications is limited to the connection of these issues with the U.S. common defense and security. Even if the NRC were to answer this question in the affirmative, I maintain that a failure by the NRC to conduct a thorough health, safety, and environmental review of the Philippine reactor export would be detrimental to the U.S. common defense and security. For, if serious flaws in reactor design or other safety hazards (such as inappropriate siting of the reactor) were to go uncorrected as a result of a failure by the NRC to review such questions, and if moreover such flaws were to lead to a major nuclear accident in

1442 157
7911300

030

the Philippines, certainly the U.S. government would be held primarily responsible by the citizens of the Philippines. For, the U.S. government has provided approximately half of the total financing of the reactor in the form of \$644 million in loans and loan guarantees from the U.S. Export-Import Bank. In addition, the U.S. government has the ultimate authority to determine whether or not the reactor is exported. Thus, in the event of a major nuclear accident in the Philippines, the Philippine government would be forced into the position of having either to weaken its ties with the U.S. government in order to save face with its own citizenry, or to defend the reactor project at the risk of eroding its credibility in the eyes of its own people. In the latter case, the prospect of anti-American backlash similar to that in Iran is entirely plausible. In either case, the U.S. government runs the risk of damaging, perhaps beyond repair, its relations with a longstanding ally in the Pacific region. Either President Marcos would be forced to distance himself from the U.S. or he would eventually-- if not immediately-- be replaced by a government far more hostile to the U.S. than President Marcos could ever be. My point is not that a nuclear accident, in and of itself, would necessarily have such drastic consequences for diplomatic relations between the two countries. Rather, given the existing political forces in the Philippines today, with opposition to President Marcos gaining momentum and assuming an increasingly anti-American tone, those are the likely consequences of a nuclear accident at the Bataan reactor site.

Why do I suggest that the U.S. government would be viewed by the Filipino people as bearing primary responsibility for such an accident? By now many Filipinos are aware of the controversy surrounding this reactor export and are cognizant of the fact that the U.S. government must license the reactor before it is exported. They are probably much less aware of the technical distinction in the review process between common security and defense-related issues and health, safety, and environmental issues. That is to say, even if the NRC should decide that health, safety, and environmental concerns do not fall within its jurisdiction, it is doubtful whether the Filipino people would exonerate the U.S. government from responsibility for an accident, since many Filipinos may be under the impression, in any case, that a health and safety review was conducted. Moreover, even if the majority of concerned Filipinos were not under that mistaken impression (that is, even if they were aware that the NRC never conducted a health, safety or environmental review), it is perfectly conceivable that they would see such a costly omission as a gross abdication of responsibility by the NRC.

2. Concerning national sovereignty. Why might a determination by the NRC not to review health, safety or environmental considerations well be construed by the Filipino people as an abdication of responsibility? After all, Westinghouse officials might argue, such an NRC review constitutes interference by the U.S. government with the sovereignty of another nation; that it should be the sole responsibility of the Philippine government to care for the safety and health of its citizens and the protection of the Philippine en-

vironment. I would respond to this argument, first, that with respect to the protection of the environment of the Philippines, the protection of the environment of a particular country is inseparable from the protection of the global environment. Clearly the intent of the Nuclear Non-Proliferation Act is to enjoin on the community of all nations the collective responsibility for the protection of our common environment. Through cooperation among nations technologies must be developed which are consistent with the maintenance of the balance of the global eco-system. Certainly a review by the NRC of the environmental impact of the export of this reactor is in conformity with the spirit of the Nuclear Non-Proliferation Act. Moreover, the Executive Order 12114, issued by President Carter on January 4, 1979, makes explicit the responsibility of the U.S. government to conduct a thorough review of the environmental impact of future reactor exports, by subsuming reactor exports under the provisions of the National Environmental Protection Act.

Concerning the protection of the health and safety of Filipino citizens, I would argue that to the extent that the national sovereignty of the Philippines is an issue here, that sovereignty has already been breached by the U.S. government. The offer by the U.S. Export-Import Bank of \$644 million in loans and loan guarantees to the National Power Corporation of the Philippines, more than anything else, made it possible for a country with an outstanding foreign debt of roughly \$8 billion to finance the purchase of this costly nuclear reactor. In addition to being costly, nuclear technology is one of the riskiest-- if not the riskiest technology in existence. The NRC's recent decision to suspend construction of domestic reactors for at least six months, pending review of safety standards in the wake of Three Mile Island, is evidence enough of the potential risks involved in the operation of nuclear reactors according to existing safety specifications. If, knowing full well the risks posed by this technology and aware of the additional risks presented by the siting of the reactor in the Philippines, the U.S. government were nonetheless to proceed at this time to license the reactor for export without a painstaking review of all health and safety issues, it would be guilty of the grossest violation of the sovereignty of the Filipino people. For, by so doing, the U.S. government would heighten the risk to the Filipino people of nuclear contamination to an unreasonable level. In short, the U.S. government would be interfering with Philippine national sovereignty to the detriment of the health and safety of the Filipino people, by assisting the Philippine government in imposing a dangerous technology on an unwilling population.

3. Concerning the protection of human rights. Implicit in the preceding argument is a redefinition of the concept of national sovereignty. The right of each nation to sovereignty over its own internal affairs is in itself unobjectionable. Yet, to equate the "nation" with the government exercising power at a given time within given territorial boundaries is implicitly to endorse a state of affairs existing in a large number of contemporary nations, in which the vast majority of the population is effectively ex-

cluded from any meaningful influence over decisions concerning the internal or foreign affairs of their government. I am speaking here of the scores of military dictatorships and other forms of totalitarian governments which dot the present-day political globe. By any standards the Philippines belongs in this class of nations. The U.S. State Department itself recently observed with respect to the Philippines: "There have continued to be credible reports of torture in 1978 as well as of the involvement of military units in abductions and murders of dissidents as an alternative to their arrest and imprisonment." (Department of State, February 8, 1979, Report on Human Rights Practices in Countries Receiving U.S. Aid, Submitted to Committee on Foreign Relations, U.S. Senate) I am not suggesting that the U.S. government should in any manner attempt to take direct action to change the character of these governments, for certainly such action could be construed as a violation of national sovereignty. I am appealing rather for a realistic assessment by the U.S. government, on a case-by-case basis, of the extent to which a decision by such a government reflects the majority will of its people.

In the matter of nuclear power, it should be clear from the broad-based character of the anti-nuclear movement in the United States that nothing like a consensus exists in this country that nuclear power is in the best interests of the American people. In this country, demonstrations against nuclear power are legal and attract hundreds, thousands, even hundreds of thousands of people. In the Philippines, all forms of demonstrations protesting the policies of the government are strictly forbidden. Moreover, in the Philippines the punishment for violation of the ban on demonstrations and other forms of public protest is incomparably more severe than the penalty paid by American anti-nuclear protestors who have seen fit to trespass on the property of nuclear power plants. One Filipino construction worker, Ernesto Nazareno, who criticized the Philippine government's construction of the Bataan nuclear reactor, was arrested by the military police and has not been seen or heard from since June of 1978. People in the Philippines strongly suspect he may have been another victim of the military's practice of "salvaging" (or murder) of political detainees.

I myself visited the Philippines, as mentioned above, in March and April of 1978 and observed the first allegedly "free" elections since the declaration of martial law in 1972. While there I made the acquaintance of a family whose father was a colonel in the Philippine Air Force and whose two daughters and one son-in-law were campaign workers for the opposition political party, Lakas ng Bayan (or LABAN for short), which fielded candidates from the Metro-Manila area for seats in the Interim National Assembly. Shortly after my departure from the Philippines in April of 1978, I wrote a letter to one of the daughters. Several months later I finally received a reply, with an explanation for the delay: two days after my letter arrived, her sister and brother-in-law had been arrested on general charges of "subversion" and severely tortured. The sister was pregnant at the time and nearly had a miscarriage. She was given electric shock, the "water cure" (the placing of a

cloth over the victim's nose and mouth and the repeated pouring of water over the cloth, inducing choking), as well as threats of rape. Her husband was also given electric shock and the "water cure" as well as being beaten on the stomach and eardrums. He is now partially deaf as a result. Such accounts are not at all unusual in the Philippines today. Under the pall of fear imposed by the prospect of the harsh punishment which awaits opponents of government policies unfortunate enough to be arrested, it is indeed a small wonder that people dare protest at all. Yet, even under these adverse circumstances, over 50,000 Filipinos chose to sign petitions to the Philippine government and the NRC asking for the reactor's cancellation and some six thousand Filipinos have written to the NRC with the same message.

The U.S. government's policy of respect for the right of a sovereign government to have sole jurisdiction over the safeguarding of its citizens' health and safety appears to be based on the implicit assumption that every government has the utmost concern for the physical and psychological welfare of its citizens. I would challenge that assumption in the case of governments-- like that of the Philippines-- which regularly engage in the physical and psychological torture, and even the outright murder of their own people. In this particular case, the U.S. government cannot assume that the Philippine government will weigh carefully health and safety considerations before proceeding with the construction and operation of the nuclear reactor. Indeed, the way in which the Philippine government conducted the public hearings on the safety of the reactor earlier this year should raise serious doubts about the sincerity of the government's concern for the health and safety of its citizens. For, when the opponents of the reactor's construction requested of the Philippine Government Safety Commission a postponement of two months to allow them time to prepare their case, the Commission denied the request and asked them to show cause why construction of the reactor (which had been suspended temporarily) should not resume. In protest of this decision, the opposition, led by ex-Senator Lorenzo Tanada, walked out, and publicly accused the Commission of "whitewashing" the safety^{risks} of the reactor. In short, no thorough and objective health, safety and environmental review of the Philippine reactor has yet been conducted. If the NRC does not undertake such a review, the likelihood is great that no one else will.

1442 161

The NRC must not let itself be pressured to license the Westinghouse reactor for political reasons. To do so would be the height of professional irresponsibility and moral cowardice. The argument that a review of health, safety and environmental issues constitutes an infringement of Philippine national sovereignty comes down, in the last analysis, to the contention that any decision at this time other than a decision to grant the export license would constitute an unwarranted interference in Philippine internal affairs. If the NRC accedes to this line of reasoning, then it is confessing its own impotence. The decision to grant the export license has already been made for the Commission by forces outside its control. I submit that the NRC, on the contrary, does have the power to choose either to grant or to deny the export license on the basis of the reactor's impact on the health and safety of the Filipino people and the environment of the Phil-

ippines. Moreover, I maintain that the NRC has the responsibility to review thoroughly health, safety and environmental issues before making a decision. For the Code of Federal Regulations clearly states:

The Commission will issue an export license if it has been notified by the State Department that it is the judgment of the Executive Branch that the proposed export will not be inimical to the common defense and security, and;

(1) Finds, based upon a reasonable judgment of the assurances provided and other information available to the Federal Government, that:

(ii) the proposed export would not be inimical to the common defense and security or constitute an unreasonable risk to the public health and safety;" (10C.F.R., S110.44)

It is my firm conviction that there is "an unreasonable risk to the public health and safety" not only of the Filipino people but of the American people posed by the export of this reactor. The roughly 30,000 U.S. citizens-- both military and civilian-- employed at the U.S. military bases at Clark and Subic in the Philippines would be threatened along with the Filipino population in the event of a major nuclear accident. As I have already mentioned, there is ample evidence to suggest that such a nuclear accident is a realistic and grim possibility. The NRC should solicit all such evidence and any other information bearing on the health, safety, and environmental risks posed by the export of this reactor through public hearings. My belief is that, after a thorough and professional review of the available evidence, the Commission will find that the only reasonable decision is to deny the application of Westinghouse for a license to export this reactor. On behalf of the Coalition Against Reactor Exports (Coalition CARE), of which I am a member, I respectfully request that you deny the license.

David O'Connor

David O'Connor

Subscribed and sworn before me this 10th day of November, 1979, at the City of Mountain View, California.

L.S.C. Pauls AHC

P. McDaniel

Notary Public

My Commission expires

4-19-82

1442 162



EXHIBIT I

Report on Human Rights Practices in Countries
Receiving U.S. Aid -- Report Submitted to the
Committee on Foreign Relations, U.S. Senate, and
Committee on Foreign Affairs, U.S. House of
Representatives, by the Department of State
(Pages 395-407)
February 8, 1979
Joint Committee Print

THE PHILIPPINES

The new Philippine Constitution provides for a democratic parliamentary form of government. However, governmental powers are concentrated in the hands of the Executive headed by President Ferdinand E. Marcos, who has ruled under martial law since 1972. Martial law was described initially as a temporary measure to restore order. More recently the Government has claimed that it is an efficient means of bringing about needed economic and social reforms and a necessary means of combatting continuing Muslim and Communist insurgencies. Martial law has resulted in the suspension of democratic forms of government and in the serious curtailment of the human rights of many citizens. The Government has publicly acknowledged the need for better control over the military following reports of abuses of civilians, some of which received wide publicity in the Manila press.

The Philippine Government states that it wishes to promote policies of respect for human rights, and in the past year there have been releases of political prisoners, although several hundred remain under military detention. The Government also has eased some civil restrictions, but only very limited steps have yet been taken toward the restoration of democratic government and the full exercise of constitutional rights. As part of this process, elections, the first since martial law was declared in 1972, were held in April 1978 for seats in a new Interim Legislative Assembly (which has little substantive authority). There were unconfirmed but credible reports of widespread vote fraud, improper Government influence and some restrictions on the opposition during the elections.

Government programs in the areas of food, health, shelter and education have had favorable results in some areas, but the widespread poverty generally has not been reduced. The Government has given priority to the agricultural sector, and has achieved

self-sufficiency in rice production since 1976-77. Corruption remains a pervasive factor in the Philippine economy.

Active insurrections continue in outlying areas of the Philippines. A Maoist-oriented insurgency has been under way for many years in several areas including rural Luzon. A more serious problem is posed by the Muslim insurgency in Western Mindanao and the Sulu Archipelago. The Government has attempted to deal with this insurgency through a variety of measures including military action, negotiation, amnesty offers, regional economic development programs and the grant of a limited degree of autonomy. The Government recently announced that regional elections in the Muslim areas will be held in May or June of 1979. On occasion pitched battles have occurred between Government troops and rebels, with serious losses and charges of abuse on both sides. In addition, many civilians have been killed and, on occasion, homes have been destroyed.

1. Respect of the Integrity of the Person, Including Freedom from:

a. Torture

The Philippine Government has declared that it is "unconditionally against maltreatment of detainees" and claims that it takes appropriate steps to prevent such maltreatment. In 1976 and 1977 Amnesty International, the Association of Major Religious Superiors of the Philippines and the International Commission of Jurists published reports which stated that investigations had shown evidence of torture of political detainees, largely by special internal security units during the initial interrogation period. There have continued to be credible reports of torture in 1978 as well as of the involvement of military units in abductions and murders of dissidents as an alternative to their arrest and imprisonment. However, there has been a marked reduction in such reports in Manila during this past year.

In late 1977 and early 1978 the frequency of torture in the Manila area apparently declined, except during the period shortly after the April elections. During this

period Jesuit sources reported the death of one young man in detention, allegedly from physical abuse. A joint military-civilian investigation of the death ruled it was due to natural causes, a conclusion that was publicly challenged. The Association of Major Religious Superiors of the Philippines cited six specific cases of alleged torture in May. Three military personnel, one of whom had been identified as the torturer in earlier instances, were named as the perpetrators in these cases. The Defense Minister ordered an investigation of the charges made in the Association's report, and in late autumn a military court was created to try the three. The Association has not reported any further cases of torture in the Manila area since that time, but has stated that abuse of political detainees in other parts of the country continues. Examples cited in its periodic reports include the alleged manhandling and torture of eight farmers in a detention camp in Leyte in July and the claimed torture of a political detainee in Caraycayon in August.

b. Cruel, Inhuman, or Degrading Treatment or Punishment

Physical conditions in many jails have been described by observers as poor, although political prisoners are not assigned to worse than average facilities and are often assigned to better. The Subcommittee on International Organizations of the House International Relations Committee reported in July 1977 its conclusion after "extensive testimony" that some political prisoners have been subject to "cruel, inhuman, and degrading treatment." Some claim they have been confined for as long as eight months in small isolation cells used for punishment of recalcitrant prisoners. In general, however, detention facilities for accused subversives have been improved considerably since 1974-75.

Beginning in the latter part of 1978 there was a significant increase in media coverage of alleged abuses of civilians by the military and of Government countermeasures. In December 1978 Defense Minister Enrile ordered the relief of the entire 60th Battalion of the Constabulary because of numerous reported

(397)

1442 165

abuses against civilian populations in northern Luzon. The Government has claimed that more than 3,000 officers and men have been disciplined since 1974 for crimes ranging from murder to indiscriminate firing of arms and that over 2,000 cases against military personnel are still pending resolution. In early 1978 the Government reported that of 136 military personnel accused of violating the rights of detainees, 62 had been punished and fourteen acquitted, while the remainder were still under investigation.

c. Arbitrary Arrest or Imprisonment

By law, detained persons must be informed of the cause of their detention and are guaranteed access to counsel and their immediate family. These rights have sometimes been abridged for political detainees during the period immediately after arrest. Allegations of arbitrary arrest continued during the year. Since the institution of martial law, many prisoners have been detained for long periods without formal charges or trial. Persons held have few ways of obtaining impartial judicial consideration of the grounds and conditions of their detention. In some cases appeals for habeas corpus have been heard by the Supreme Court, but in no case has the Court ordered the release of a suspected subversive.

This year the Government announced a policy of fostering "national unity and reconciliation," which has included large-scale releases and amnesties of detainees, the most recent in September 1978. Although more than 3,000 persons -- most of whom were under military jurisdiction -- were named, a substantial but still unknown number of these had already been released from detention pending trial. The Government counted 461 "public order violators" held in military custody at the end of 1978 as compared with its figure of 620 held one year earlier. Church sources for the past two years have consistently estimated political prisoners at 500 to 1,000.

d. Denial of Fair Public Trial

Most persons accused of crimes continue to be tried in regular civilian courts and to receive public trials.

(398)

1442 166

Military tribunals, in addition to their jurisdiction over military law cases, still have jurisdiction over pending cases involving alleged subversion, rebellion, espionage, arson, use of firearms and explosives in the commission of a murder or robbery or crimes which undermine the security of the state. These trials are open to the public but are generally conducted inside military reservations, and observers are photographed by the military. In a Letter of Instruction dated November 27, 1978, President Marcos directed that all future criminal (including subversion) cases be tried by civilian rather than military courts.

Most prisoners held under military jurisdiction for security or political offenses have been permitted access to their families and lawyers early in their detention. Once a prisoner has been charged by a military commission, a judge advocate is appointed as defense counsel unless the prisoner retains his own attorney. Attorneys who represent such clients are not subjected to harassment.

In January 1978 the Philippine Government announced that the 22 part-time military tribunals then functioning would complete the cases before them and then disband. Defense Minister Enrile gave these tribunals three months to complete their work; by mid-July, however, only seven of them had actually been phased out. Enrile also established ten new full-time military tribunals to hear some 1,500 remaining cases not yet assigned for trial. The recent releases and amnesties have helped reduce this considerable backlog of cases, which had all but engulfed the military court system.

In 1972 the President required all lower court judges to submit undated letters of resignation. Although he may remove any of these judges at any time by accepting the letter of resignation, he has made very little use of these letters to date. Under the provisions of the new Constitution, administrative supervision over lower courts evidently passed from the Executive Branch to the Supreme Court in May 1973. The Prime Minister has the constitutional authority to remove Supreme Court Justices by appointing their successors, but he has not done so.

e. Invasion of the Home

The Philippine Constitution of 1973 provides that the rights of the people to be secure in their persons, houses, papers and effects from unreasonable searches and seizures shall not be violated and that search warrants shall be issued only upon probable cause as determined by a judge or such other responsible officer as may be authorized by law. Under martial law powers the President may issue an arrest, search and seizure order on the basis of probable cause. In the past some arrests have reportedly been made without presentation of a legal warrant.

2. Governmental Policies Relating to the Fulfillment of Such Vital Needs as Food, Shelter, Health Care and Education

The Philippine economy is still basically agricultural, but has a growing industrial capability and a developing services sector. Governmental development programs have concentrated on improving agricultural production, population control and land reform, leaving industry, mining and large-scale agriculture in the hands of a small number of corporate interests, many with close ties to the political leadership. The pattern of private sector ownership continues along traditional lines. The Government has encouraged private foreign and domestic investment in priority manufacturing fields and in labor-intensive and export-oriented industries.

Inequitable distribution of the social and economic product and traditional patterns of corruption remain problems. The primary factors limiting access to food, shelter, health care and education in the Philippines, however, are the economy's inability to provide fully the necessary goods and services, severe distribution problems within the archipelago and the substantial growth rate in the population. In December 1978 President Marcos announced the activation of a special tribunal having jurisdiction over cases of graft and corrupt practices involving public officials and employees and the creation of an ombudsman/prosecution body with powers to investigate complaints involving public officials.

1442 168

Education is widely available up to and including the university level, and educational opportunity is a major factor in a remarkably unrestrained upward mobility within the society.

Efforts to provide the rural infrastructure needed to support increased agricultural production and to improve the quality of life in rural areas have made gains over the past five years. Assistance to agricultural production has been reasonably effective. Agricultural land is becoming scarce, however, and excess agricultural labor has migrated to the cities. A major contributor to this poverty and landlessness is the birth rate in rural areas, which is substantially higher than the overall national rate of 2.8 percent. The land reform program applies to land devoted to rice and corn production and made commendable progress in its early years when it dealt primarily with large holdings. Attention is now focused on small and medium size holdings, and this area of reform is proving a more difficult task. The land reform law does not apply to land used for plantation export crops such as sugar and coconut.

World Bank data show per capita Gross National Product as having increased, before discounting for inflation, from \$260 in 1972 to \$460 in 1977. After adjusting for inflation and population growth, the real per capita growth rate for the period 1973-77 was 3.8 percent annually, compared with 2.6 percent annually from 1965-73. Despite the fact that the Government has steadily increased the budget share devoted to infrastructure from 11.0 percent of the total budget in 1975 to 13.9 percent in 1978, low commodity prices and the global economic recession have severely limited real economic growth. A 1977 World Bank report states tentatively that from 1971-75 there may have been a "small reduction in the extent of poverty." Philippine opposition spokesmen claim that per capita income, adjusted for inflation, is lower today than prior to martial law. Philippine income distribution is far from equitable, although some information indicates that the situation may be improving slightly. With respect to rural-urban distribution, the 1977 World Bank report concluded that real incomes in rural areas have probably increased somewhat, while real

urban incomes have remained roughly constant. Other studies have shown the rural poor may now be poorer, however, and rural landlessness appears to be increasing at a steady rate. The high rural birth rate, as noted above, is an exacerbating factor.

Measurable improvements in the health of the population are reflected in increases in life expectancies and declines in infant mortality rates between 1970 and 1976. Life expectancy at birth advanced from 56 years in 1970 to the current 58 years, while the infant mortality rate declined from 80 deaths per thousand live births in 1970 to 74 per thousand in 1976. Population pressure is a serious constraint on both present and future per capita productivity. Government achievement in the family planning field can be seen from the reduction in the birth rate from approximately 3.1 percent in 1970 to 2.8 percent today.

3. Respect for Civil and Political Liberties, Including:
 - a. Freedom of Thought, Speech, Press, Religion and Assembly

The Government's encouragement of study abroad and the wide availability of education throughout the country result in substantial access to a broad range of ideas and publications. A good selection of books and periodicals available in the United States is similarly available at local bookstores and newsstands in the Philippines. Government media censorship organizations were abolished in 1974 and there is open access by foreign media. The local mass media, however, are controlled almost entirely by persons sympathetic to the Government, although small opposition-oriented publications have been circulated. Speeches critical of Government policies occur with relative frequency in various public forums and have of late been reported increasingly in the media. The Government's official position is that it welcomes dissent but will not tolerate subversion.

Churches and mosques are open for worship and religious freedom is fully respected. Members of religious organizations have never been harassed or imprisoned for either doctrinal belief or ceremonial observance. The

1442 170

Government has taken action against some members of the clergy for their alleged involvement in what the Government considers subversive activities.

Twenty-four Filipino and foreign priests, nuns and lay workers were accused of incitement to sedition and scurrilous libel against the Philippine Government through two publications (The Communicator and Signs of the Times). The publications were closed down in 1976, although none of the persons accused was detained or prosecuted. In July 1978 the military was ordered to drop the charges against all 24 of them but did not return their printing equipment. Successor publications have appeared and have been tolerated by the Government. Two church-owned radio stations in Mindanao were also closed in 1976. Although charges against the operators have been dropped, the stations have not been allowed to re-open.

There is substantial abridgment of freedom of assembly, particularly in the case of oppositionist political activity. A "free debate" period was declared preceding referenda and the April election for the new Assembly, during which oppositionists organized well-attended rallies and distributed campaign literature critical of the Government. Outside such "free debate" periods, the Government has tightly controlled oppositionist rallies and demonstrations. Unauthorized demonstrations are broken up by police. On April 9 an unauthorized march protesting the conduct of the just-held elections resulted in the arrest of over 600 persons, although charges against all of them were dropped by June.

b. Freedom of Movement Within the Country, Foreign Travel and Emigration

Domestic freedom of movement is basically unimpaired. Restrictions apply to certain areas of Mindanao and the Sulu Archipelago, where the Muslim insurgency has been most active. In August 1977 the martial law curfew (midnight to 4:00 a.m.) was lifted throughout the nation except for certain areas of insurgent activities. In the same month the general restrictions on temporary travel abroad by Philippine citizens were lifted. Travel restrictions are sometimes placed on former

1442 171

political prisoners released on a temporary basis. Some degree of restriction on travel abroad still is apparently in effect for critics of the Government. Occasionally, prominent persons critical of the Government have had difficulty obtaining exit documents. There have been a few incidents in which Filipino travelers, whose names are found on lists maintained by the military, have been delayed at the airport. In most cases oppositionists and their families have been allowed to travel abroad. There is no general restriction on emigration.

c. Freedom to Participate in the Political Process

When martial law was imposed in 1972, the democratic government under which the Philippines had been governed since independence was suspended, and most restraints on executive power were removed. At the same time public order has improved. The Supreme Court has upheld the Government position in all cases challenging the exercise of martial law powers, although its decisions have not been unanimous. The Congress was replaced this year by an Interim Legislative Assembly -- lacking substantial powers -- which is Government-dominated. During the election campaign, opposition candidates were allowed to organize and speak out relatively freely, although the pro-Government media restricted their access to the general public. President Marcos, who automatically became Prime Minister when the Assembly convened, announced that he was voluntarily relinquishing his right to issue executive decrees in place of legislation, although he and the Solicitor General have stressed that as President, he still retains the authority to "legislate." It is still not clear how long the Assembly will sit before it organizes elections for the permanent legislative body, as envisaged in the new Constitution.

Popular election of local government officials has been supplanted by Presidential appointment in recent years. These officials have become, in effect, extensions of central authority. Local elections, promised for late 1978, have been postponed with no date set.

Since the imposition of martial law, the Government has established a new basic precinct level of citizens' assembly, the barangay, designed to be a forum for community discussion and action. Barangay officials,

the lowest level of public officialdom, participate with (formerly elected) city and provincial councils in local government.

There is universal suffrage in the Philippines. Since the imposition of martial law, the Government has on five occasions held referenda or plebiscites on issues of public policy, including amendment of the Constitution, with the population voting either in public meetings or by secret ballot. During the "free debate" periods immediately preceding these referenda, authorized opposition groups were allowed to hold public rallies, given limited time on radio and television to debate referendum issues, and allowed to distribute propaganda materials. All referenda, including one on December 17, 1977, to affirm President Marcos in office, resulted in overwhelming (90 percent) affirmative votes. The lack of alternatives in balloting and the degree of Government control over the process have raised questions as to the validity of the referenda, the conduct of all of which were criticised by the opposition.

Political parties, while not outlawed (except for the Maoist Communist Party), effectively disappeared until this year's Assembly campaigns when three principal parties were formed: the pro-Government nationwide Kilusang Bagong Lipunan (KBL) party; the Lakas ng Bayan (LABAN, led by imprisoned former Senator Benigno Aquino) party in Manila; and the Pusyon Visaya (anti-KBL but not clearly anti-Government) party in the Cebu region. The non-KBL parties were accorded a substantial degree of freedom to campaign. Aquino, while not released from detention, was permitted an uncensored television interview and a press conference to answer public charges against him.

There were widespread reports that the conduct of the actual election was marred by substantial vote fraud and by the full use of the Government machinery in support of KBL candidates. The announced results were a sweep for the KBL, with Mrs. Imelda Romualdez Marcos, the President's wife, leading the ticket in Manila. The Pusyon Visaya party won all 13 seats in Cebu, and, with two exceptions in Mindanao, the KBL won all other seats nationwide.

The Government encourages trade unionism and collective bargaining, although the dominant trade union confederation rarely takes positions different from those of the Government. There are nearly 2,000 registered collective bargaining agreements freely negotiated between the parties. Although there is a Government ban on strikes in "vital industries," this ban is often ignored. Legally registered trade unions have in the past two years filed 453 notices of intent to strike and have conducted 121 actual strikes without suffering penalties. The Government becomes involved as a conciliator or compulsory arbitrator only when a strike or the threat of a strike occurs. Many rural plantation workers are not represented by any labor organization. Although legislation, such as minimum wage laws, exists to protect these workers, enforcement is very limited.

4. Government Attitude and Record Regarding International and Non-Governmental Investigation of Alleged Violations of Human Rights

The Philippine Government has cooperated with outside observers interested in the status of human rights in the Philippines and has facilitated their contacts with detainees. Teams from the International Committee of the Red Cross inspected Philippine detention centers in March 1973, November and December 1974, July 1976 and September 1978. An Amnesty International mission visited the Philippines in November-December 1975 and issued a critical report in September 1976. Representatives of the International Commission of Jurists visited the Philippines in 1975 and 1977 and issued a report on August 3, 1977, strongly critical of the treatment of civil and political rights. The Philippine Government has been willing to discuss human rights questions with representatives of the U.S. Government. U.S. Congressional and Executive Branch visitors interested in human rights matters have been received, but the Government has publicly inveighed against what it considers interference in internal affairs. It has also complained about biased foreign press coverage of the human rights situation, although allowing foreign media virtually free access. The Government does not interfere with the activities of the Association of Major Religious Superiors of the Philippines, a task

(406)

1442 174

force of which prepares studies on detainees and issues periodic lists of persons arrested, released, allegedly harmed by Government authorities or missing and believed to have been arrested.

(407)

1442 175

1442 175

The Committee of 26, a group of North American Christians concerned about issues involving human rights, especially the basic right to life, condemns the construction of the Westinghouse nuclear power plant in Morong, Bataan, Philippines.

The key agents of this billion dollar project are the U.S. State Department, several American transnational companies, the American taxpayers, and the Christian communities. In a spirit of humble concern the Committee urges them to consider the following facts:

- * Construction has started on a \$1.1 billion nuclear power plant by Westinghouse Corporation. Of this amount, the U.S. Export-Import Bank (EXIMBANK), an American taxpayer supported agency, has loaned \$644 million as part of the financing for the project. Another \$200 million are loans by private American banks, and the balance is to be raised by the Philippine government from local taxation.

- * The International Atomic Energy Agency Safety Mission determined that the plant site is likely to experience a quake more severe than the plant is designed to withstand. The area in the Philippines has an active volcano in the neighborhood and is in an earthquake zone. The Westinghouse plant is based on a design originally used on a plant whose construction was stopped in Puerto Rico in 1972, on the very same question of seismological conditions of the plant site.

- * President Carter's Commission on the accident at Three Mile Island pointed out in October that fundamental changes must be made in the way nuclear reactors are made, operated and regulated. Subsequently, the U.S. Nuclear Regulatory Commission decided on November 5 that it will not permit utilities to operate or construct reactors for at least six months, and possibly as long as two years.

- * A specialist in nuclear safety of the International Atomic Energy Agency, Dr. Morris Rosen has pointed out that the reliability and dependability of nuclear reactors are not subjected to detailed review by the regulatory bodies of the exporting countries. Nevertheless, the U.S. State Department recommended on September 28 that the Nuclear Regulatory Commission issue an export permit to Westinghouse for its reactor for the Philippine plant.

- * The University of Philippines' Office of Research and Publication said that the current cost of the Bataan nuclear plant represents three times the annual agricultural investment in the Philippines - a nation where 71% of the population is rural, 37% of the households lack running water, and 8 million children suffer from malnutrition. The plant will not supply electricity to the people but will service U.S. military bases and the Free Trade Zone where multinational companies like the Ford Motors stamping plant stand to benefit.

- * The Archbishop of Manila, Jaime Cardinal Sin, the National Secretariat of Social Action (NASSA) of the Catholic Bishops Conference of the Philippines, and the Association of Major Religious Superiors of the Philippines have all protested against the construction of the Bataan nuclear power plant.

In light of these facts, the Committee of 26 strongly urges:

- 1) that the U.S. State Department reverse its earlier September 28 decision asking the Nuclear Regulatory Commission to issue an export permit to Westinghouse;
- 2) that the participants in the San Francisco Convention of nuclear producers and suppliers desist from exporting nuclear equipment which may be extremely profitable to them, but most harmful to human life;
- 3) that the American taxpayers register their protest with the State Department and the Nuclear Regulatory Commission against continued subsidy of this nuclear project, which represents highly inflationary governmental spending;
- 4) that Christian communities in North America show solidarity with the churches in the Philippines, including the voiceless majority, and become a voice for them before agencies and companies in the United States that pursue profit-making in unconscionable disregard for human life.

...

1442 176

(The Committee of 26 is a group of North American Christians concerned about U.S. Economic and political policies abroad as they affect the human rights of individuals and communities. It was initially organized around concern for Nicaragua and has recently expanded this concern to the Central American region and the Philippines.)