

article2

of the International Covenant on Civil and Political Rights

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special report

the criminal justice system *of* the Philippines is rotten

any person whose rights or freedoms are violated shall
have an effective remedy, determined by competent
judicial, administrative or legislative authorities

The meaning of article 2: Implementation of human rights

All over the world extensive programmes are now taking place to educate people on human rights. As a result today there exists a vast number of persons and organisations firmly committed to human rights; more than at any other time in the history of humankind. Yet human rights continue to be monstrously violated.

It is time for the global human rights movement to examine why it may not yet be achieving real improvement in the global human rights situation. One factor hindering honest examination is the belief that improvement of knowledge about human rights will by itself end human rights violations. This is a myth based on the corresponding belief that education is itself capable of improving things.

In reality human rights can only be implemented through a system of justice. If this system is fundamentally flawed, no amount of knowledge—no amount of repetition of human rights concepts—will by itself correct its defects. Rather, these need to be studied and corrected by practical actions. Hence research and intimate knowledge of local issues must become an integral part of human rights education and related work.

article 2 aims to do this by drawing attention to article 2 of the International Covenant on Civil and Political Rights, and make it a key concern of all partners in the global human rights community. This integral article deals with provision of adequate remedies for human rights violations by legislative, administrative and judicial means. It reads in part:

3. Each State Party to the present Covenant undertakes:

- (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
- (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
- (c) To ensure that the competent authorities shall enforce such remedies when granted.

Sadly, article 2 is much neglected. One reason for this is that in the 'developed world' the existence of basically functioning judicial systems is taken for granted. Persons from those countries may be unable to grasp what it means to live in a society where 'institutions of justice' are in fact instruments to deny justice. And as these persons guide the global human rights movement, vital problems do not receive necessary attention. For people in many countries, international human rights discourse then loses relevance.

Other difficulties also arise with article 2. One is the fear to meddle in the 'internal affairs' of sovereign countries. Governments are creating more and more many obstacles for those trying to go deep down to learn about the roots of problems. Thus, inadequate knowledge of actual situations may follow. A further and quite recent disturbance is the portrayal of national human rights institutions and their equivalents as surrogate agencies for dealing with article 2 related issues. Some state parties may agree to new national human rights institutions taking on this role because they know that by doing so they may avoid criticisms of a more fundamental nature.

Thus after many years of work, the Asian Legal Resource Centre began publishing *article 2* to draw attention to this vital provision in international law, and to raise awareness of the need to implement human rights standards and provide effective remedies at the local level in Asia.

Relevant submissions by interested persons and organizations are welcome.

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Foreword: The rotten criminal justice system of the Philippines must be cleaned out

Basil Fernando, Executive Director, Asian Human Rights Commission & Asian Legal Resource Centre,
Hong Kong

To the ordinary person in the Philippines, neither the police nor the prosecution and courts inspire any confidence. While the country's elite is good at the use of sophisticated and elegant rhetoric on justice and democracy—sometimes couched in the jargon of the right, sometimes of the left—the ordinary person knows that it is far removed from reality. The fine words of the constitution, the bill of rights and various laws ostensibly introduced to protect the people are completely divorced from the crass reality of the absolutely inefficient, corrupt and careless policing, prosecuting and adjudicating systems.

Within the last couple of years, the Asian Legal Resource Centre and Asian Human Rights Commission have gathered hundreds of stories that speak to this gap between fine words and reality. Over a hundred of them are contained in this report, “The criminal justice system of the Philippines is rotten” (*article 2*, vol. 6, no. 1, February 2006). The stories reveal a pattern of extreme cruelty and state complicity. Filipinos are being threatened, tortured, abducted, killed and destroyed with a brutality that no civilised state would permit. This cruel behaviour is permitted, and encouraged, because the country's institutions for criminal justice are in fact so barbaric that together they bear no resemblance to any modern system of justice.

Most in the Filipino elite will find such remarks offensive. They will respond that their laws are modern: many of them adapted from those of the United States and other longer-established jurisdictions; the constitution has assimilated modern international human rights jurisprudence. They will point out that the Philippines has ratified more international laws on human rights than other countries in Asia, and its government is outspoken on human rights in regional countries, such as

Burma. But where are these laws found to be implemented effectively? How many Filipinos enjoy the rights promised to them under United Nations conventions?

Rights are made real not through the enactment of laws but their implementation. Implementation depends on institutions: police, prosecutors, courts. If these do not function at all, or other than as envisaged under the laws, then grand declarations of rights remain meaningless and people's lives are made miserable.

In the Philippines, law-enforcement agencies are utterly corrupt and unscrupulous in their dealings with the public. If rights on paper are ever to be given life there, the top priority must be to transform the country's errant and self-serving policing system to one that will serve the people.

The public prosecutors are closely associated with the role of the police. Prosecutors are integral in ensuring that criminal justice works with integrity and speed. What if they too are corrupt or deeply politicized? What if they are unable to challenge powerful and connected criminals? What if they are deliberately neglected so as to prevent them becoming a threat to persons at the highest levels of government who abuse their power? These are critical questions for people in the Philippines seeking to defend human rights and democracy there.

Where policing and prosecuting are rotten, so too must be adjudicating. In fact, complaints about the courts are common among Filipinos. It is even difficult to find an ardent defender of the system among the legal profession or intellectuals. Citizens going to the courts in search of relief often find their suffering compounded. But to where else should they turn to obtain comfort and resolve their problems?

Ultimately, working criminal justice is about wellbeing. While a lot of the talk about people's wellbeing comes in the form of development jargon, it underestimates or altogether ignores the necessity for working courts, prosecutors and police. Where talk about development and social progress does not adequately address institutions for the rule of law and human rights it is empty talk: sweet rhetoric that will not alter the bitter reality. The task for people in the Philippines is to raise discussion on how to expurgate the country's rotten criminal justice institutions in order to give meaning to discourse on human rights, democracy and development. This report is intended as a small contribution towards that end.

**“ultimately,
working
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Introduction: The criminal justice system of the Philippines is rotten

Editorial board, *article 2*

This special report, “The criminal justice system of the Philippines is rotten” (*article 2*, vol. 6, no. 1, February 2007), is the first published by the Asian Legal Resource Centre (ALRC) on the situation of criminal justice and wanton killings, disappearances, assault, arbitrary detention and torture by state officers or their agents in the Philippines.

The title of the report is important. Like other parts of Asia, the problems in Philippines are at their most basic problems of criminal justice and the institutions that should function to implement laws: the police, prosecutors and courts. By emphasising the rottenness of the criminal justice system, the authors stress that gross abuses of human rights are occurring daily in the Philippines primarily as a consequence of this condition. The changing of political leadership, invariably the motivating cry for street demonstrators, is meaningless without attempts to stop the deep institutional rot eating through the country’s law-enforcement agencies, courts and bureaucracy.

In 2006, the Philippines was elected to two key United Nations bodies: the Human Rights Council and the Economic and Social Council. Its election was a triumph of diplomacy over reality. As this report amply shows, life for vast numbers of ordinary Filipinos is made a misery by the workings of state agencies. The fact that the country has failed to implement key recommendations that the UN Human Rights Committee made in December 2003, in accordance with its obligations under the International Covenant on Civil and Political Rights, also speaks to the low value that the government places on its commitments under international law, despite appearances to the contrary.

This report contains details of 110 specific cases, involving 227 victims, including 81 incidents of killing or attempted killing documented by the sister organisation of the ALRC, the Asian Human Rights Commission since 2004, 62 of them since the start of 2006 alone. The remaining 39 cases relate to incidents of torture, disappearance, abduction, illegal arrest and intimidation.

The ALRC is acutely aware that these represent only a small fraction of the total number of such incidents in the Philippines in recent years. That these incidents are going on constantly is also publicly known in the Philippines, and increasingly, internationally. From the time the words in this introduction are written to the time that this report is published, many more will have fallen victims of gunmen's bullets, police or military assault, or have received messages on telephones and in letters warning them not to continue in whatever simple things they may be doing for the improvement of their own lives and those of their fellow humans. By default they will also have fallen victim to the failures and neglect of investigators, prosecutors, judges and others duty-bound to protect their rights and uphold the notion of justice, but unwilling or unable to do so.

“ life for vast numbers of ordinary Filipinos is made a misery by the workings of state agencies ”

Notwithstanding, taken together one hundred such cases speak clearly to the patterns of killings by “unidentified gunmen” on motorcycles or abductions by others in vans, and subsequent limited and failed investigations, non-protection of terrified witnesses and inaction or bias by the Department of Justice and its public prosecutors, labelling of victims as “enemies” of the state, and belated and flawed interventions by the courts. None of the cases in this report has, to the knowledge of the ALRC, been satisfactorily resolved. Even those where very strong evidence of military involvement exists, no perpetrators in state agencies are known to have been prosecuted.

The report discusses these individual cases with reference in particular to the country's defective policing, inept prosecution and failed witness protection. It also discusses them with reference to the role of the military, and in particular, the labelling of persons extrajudicially killed as “enemies” or equivalent, in order to create a category of citizens for whom the ordinary laws no longer need apply and who may be killed without fear of consequences or the prospect of effective investigation. The manner in which this is now being done threatens the entire criminal justice system, and more broadly, the very fabric of government and democracy of the country.

Six suggestions are given for ways to stop the rot, including with reference to the need for an urgent comprehensive review of the Philippines' criminal justice system; the rationalising of its deficient witness protection programme and law; the strengthening of agencies for the receipt, investigation and prosecution of complaints against police and military officials; the use of labelling; action on findings into extrajudicial killings; and the enactment of domestic laws on torture, enforced disappearance and other fundamental rights in accordance with international law.

Neither the recommendations nor the other contents of the report are in themselves answers to the problems afflicting the criminal justice system of the Philippines. Rather, they are intended as starting points for new ideas and discussion. Where grave problems and abuses are widely known but remain

“where grave problems are widely known but remain unaddressed, something is very wrong”

unaddressed, something is very wrong. It is a sign that society has not only of a failed system but of a failure in society: to grasp, think and discuss about what is happening. This publication is a small attempt, after some years of work, to provoke new attempts at grasping, thinking and discussing.

In 2006 the Asian Human Rights Commission launched an online petition against the ongoing extrajudicial killings in the Philippines, at www.pinoyhr.net, addressed to the justice secretary and other government officials. The text of the petition is among other appendices to this report: open letters to the authorities in the Philippines, the country's witness protection law, and some recommendations of the UN Human Rights Committee to the Philippines in 2003. So far over 6000 persons have signed the petition. We urge all readers to join them.

One of the striking characteristics about the response to the petition has been the huge number of outraged, angry, thoughtful and poignant comments added by signatories. In recognition of these voices, we are reproducing just a few of them in this report. To read all, visit the petition website and click on “signatures”.

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Kilusang Para sa Pambansang Demokrasya
Center for Trade Union and Human Rights
Promotion of Church Peoples' Response
Cordillera Human Rights Alliance

The authors especially acknowledge the determination of the Filipino people to overcome the obstacles placed before them by their country's rotten criminal justice system and corrupted institutions. It is their willingness to do this that makes this publication, and others like it, both possible and meaningful.

As “The criminal justice system of the Philippines is rotten” was going to print, the UN Special Rapporteur on extrajudicial executions, Professor Philip Alston, visited the Philippines and released a summary of his observations. Shortly thereafter the government made public the findings of the Melo Commission into extrajudicial killings. The Special Rapporteur's comments and extracts from the commission report have been added to the appendices and referenced in the body of this document.

The criminal justice system of the Philippines is rotten

Philippines Desk, Asian Human Rights Commission,
Hong Kong

Why do victims and witnesses do not come forward to file charges or support cases in court after shootings, assaults and other serious crimes in the Philippines today? Their unwillingness to lodge complaints, support prosecutions or otherwise act to obtain justice speaks to the total lack of confidence in the country's rotten criminal justice system.

Impunity is written large across the face of criminal justice in the Philippines: perpetrators of killings, torture, abductions and other gross abuses have easy assurances that they will get away with whatever they have done. And where these persons are themselves a part of the police, military or armed groups working on their behalf, impunity is all but guaranteed. Little wonder that attacks are carried out in broad daylight and in public places—a crowded market, the front of the victim's home, during a church service—by men who don't even bother to conceal their faces or identities. They know full well that they will never be arrested; the victim's family may even be too terrified to admit seeing the perpetrators' faces. Where they do, some innocent persons can easily be found to take the place of the actual offenders. Either way, the lack of witnesses and other evidence together with disinterested and primitive investigating mean that few cases ever reach full trial in the courts.

Flawed and misguided criminal investigations

The police are the first and biggest obstacle to victims and their families obtaining justice in the Philippines. Where family members and witnesses come forward, they often find that police investigations contradict their versions of incidents. Police investigators sometimes make premature pronouncements about the motive for a killing and its cause, flatly rejecting alternative suggestions, particularly where state officers or persons allegedly connected to them are among the possible suspects.

Take Enrico Cabanit (story 46), who was killed on 24 April 2006. The police did not submit the victim's body for postmortem examination; police investigators later insisted that the failure to conduct an autopsy did not violate police procedures. And although they conducted a crime scene investigation, the police failed to collect and secure several pieces of physical evidence—including empty bullet casings. There are no photographs of the fresh crime scene as the camera used was later found to have been broken. After the victim's family complained to the National Bureau of Investigation attached to the Department of Justice, Cabanit's body was exhumed and it was found that "two fatal wounds found in the head were caused by penetrations of a .45 caliber ammunition", not 9mm as the police had reported. Despite this conclusion, Police Intelligence Chief Wilfredo Puerto has stated that the case is already closed as the gunman whom the police maintain shot Cabanit was himself killed a month later. Despite the NBI's findings having contradicted their own conclusions, the police have not moved to reinvestigate or charge any other persons with the killing.



PHOTO: REUTERS/STR News

A police crime scene investigator walks by the body of a slain congressman in Manila

When Alberto Yadan (story 12) was murdered on 6 December 2006 in Batangas, municipal police gathered empty casings and hauled his dead body into their vehicle, to hand it back to his relatives. Neither a proper crime scene investigation nor postmortem was conducted. They arrested Melchor Bataller in the same day, reportedly without any warrant, as he was said to have threatened Yadan and his family prior to the killing. The absence of evidence upon which to make the arrest and the wrong procedure of arrest both undermine the credibility of the case. Not only is it possible that Bataller is innocent and the charges against him are unwarranted, but even if he is the actual perpetrator, the case could be dismissed by the court on grounds of the irregularities in investigation and arrest.

“torture of persons to have them confess to crimes they did not commit is common in the Philippines”

The arrest and torture of ordinary persons in order to have them confess to crimes they did not commit is common in the Philippines. This is what happened to 11 teenagers in Buguias, Benguet on 14 February 2006 (story 105)—two of whom were minors. Police arrested them without any warrants or witnesses to their alleged crime: attacking a military camp and killing a soldier. They were not told why they were being arrested or given access to lawyers. While under police custody, they were beaten on the genitals and electrocuted. While at the provincial jail, one was almost stabbed in an attempt on his life by a fellow inmate; jail guards who had been informed of threats against them had made no special arrangements for their protection. No effective investigation has ever been conducted into the attack to determine who was behind it: the victims suspect that it was in retaliation to their filing of criminal charges against the police and military. The victims were released by a court on December 20 for lack of evidence. They are now uncertain as to whether or not to pursue their complaints against the police and soldiers; they fear for their lives if they proceed, are under pressure from the accused to withdraw the case, lack confidence in the country's rotten criminal justice system, and have little money for litigation.

Whereas effective investigation in an ordinary criminal case is difficult to obtain, it is all but impossible where policemen are themselves among the accused. After Gerardo Cristobal survived an ambush allegedly by policemen attached to the Imus police station in Cavite (story 44), colleagues of the suspected perpetrators investigated the case and instead accused Cristobal of attacking the police. They filed charges against him in court despite complaints of bias from the victim, whose testimony was not investigated. The charges were thrown out, but no further inquiries were conducted. The police suspected of the attempted killing have never been investigated or charged.

Since Cristobal's colleague Jesus Servida was subsequently shot dead in the same municipality, his family has had little faith in the possibility that they will ever obtain justice. The police did not bother to cooperate with them during investigations

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and have not kept them informed of their work. The family found out through the media that the police had produced a sketch of the alleged killer.

Police invariably fail to involve the family of a victim in their inquiries, often to the detriment of a case. After concluding their investigation into the murder of husband and wife George and Maricel Vigo (story 34), they filed charges against unidentified members of an illegal armed group. Relatives of the victims accused the police of working haphazardly and failing to interview key witnesses, who had gone into hiding. Requests for new investigations were ignored as the case was “closed” by virtue of it being in the court, despite the fact that the actual identities of the gunman and his accomplice had not been established.

The failure of police to work with victims’ families is most glaring in cases of enforced disappearance. In practice the police do little or nothing to assist persons searching for abducted and missing relatives. Only where a body is recovered do investigators go through the routine of making inquiries and completing paperwork for the purpose of identifying the deceased, if not the killers. Complaints of disappearances go no further than the daily logbook, again particularly if the police are themselves the accused, such as when they detained five persons on 28 April 2006 (story 89). Relatives of the five who went from one police station or army camp to the next were repeatedly told that they were not in custody there. Days later it was revealed that they had been in police custody, and allegedly tortured, all along.

Criminal investigation in the Philippines is also mocked by way of the establishment of ineffectual and biased special “task force” units for specific crimes. In August 2006 the president of the Philippines reportedly instructed the police task force established to investigate cases of alleged extrajudicial killings (Usig) to resolve at least ten within the following ten weeks. This was never done. Had it been, it would still take 14 years to resolve all the cases of killings known at the time of the instruction. Evidently, the statement was intended as little more than a publicity stunt, as indeed the task force to which it was directed appears to be. Working on a monthly budget of around 300,000 Philippine Pesos (USD 6000) with limited personnel and resources, the task force has at no point been capable of investigating the hundreds of alleged killings and attempted killings had it the inclination to do so, which successive statements by its personnel have made clear it does not. The Melo Commission report made public in February 2007 notes that out of some 111 cases of killings acknowledged by the Philippine police, most of which are under the responsibility of Task Force Usig, only 37 have been forwarded to the prosecutor (see appendix II).

A Statement by the Asian Human Rights Commission

Police “solve” cases but killings continue

AS-171-2006, July 21, 2006

The Philippine National Police have a unique definition of the word “solved”. According to them, once a charge is filed against a suspect with the Office of the Prosecutor it is solved. Suspects not arrested? No matter, it is solved. Investigation flawed? No matter, it is solved. Requests of victim’s family for more inquiries unanswered? No matter, it is solved. Witnesses got no protection? No matter... Once the case is with the prosecutor, they reason, their job is done. What happens after that is someone else’s business.

This approach has serious implications for victims of the relentless extrajudicial killings and other grave abuses of human rights going on in the Philippines. Take the case of slain activists George and Maricel Vigo, a husband and wife who were killed this June 19 in Kidapawan City. A special unit was set up to probe the killings and it promptly identified and filed criminal charges against the alleged perpetrators. Despite deep dissatisfaction with its findings among the victims’ relatives, the unit is reportedly refusing to make further inquiries. It also apparently could not care less about the grave security threats to witnesses and family members. Case solved.

When labour leader Gerardo Cristobal survived an attack on April 28--allegedly by policemen attached to Imus Police Station, Cavite--he was himself charged with frustrated murder by police investigators on that same day. Those who filed charges against him are the subordinates of those who have been accused of attacking him. There has been no impartial investigation to look into the alleged attempt on Cristobal’s life. He has been charged; case solved.

The killing of a soldier during a February 10 raid at a military detachment in Cabiten, Mankayan, Benguet led to the filing of robbery with homicide charges against 11 persons whom the police illegally arrested and allegedly tortured in Buguias two days later. Although the court ruled that the arrest was illegal, still the police have insisted on filing the case. Again, there has been no impartial and independent investigation into the torture allegations in this “solved” case.

Solving cases is all about performance efficiency. No doubt it suits the purposes of the PNP to lower the bar for what qualifies as a solved case because it gives a better impression of its supposed efficiency. Unfortunately, the reality is the opposite. While it is true that police authority is limited to conducting investigations and filing charges in court, efficiency rests on the outcomes of those cases: whether or not the real perpetrators are charged; whether or not the investigation has been done properly; whether or not the case stands up in court; whether or not the witnesses and relatives of a victim are free from threats and attacks. By any of these measures, the work of the Philippine police is a dismal failure and “solved” cases are few. The effect of encouraging police to “solve” cases simply by getting them into court is in fact to encourage them to rush inquiries, torture innocent persons, neglect the needs and protests of concerned persons and ignore all the consequences.

The duty of the police does not end with the filing of a case with a prosecutor. It ends only when justice has been duly served. It involves sincerity in dealings with the victims and their families. The filing of charges is *(continued overleaf)*

merely one step in the lengthy criminal justice process: a process that is established in order to safely determine guilt and measure punishment. Unfortunately, in the Philippines today this is a little-understood notion among the country's police.

The Asian Human Rights Commission calls upon the Philippine National Police to cease with the absurd notion that cases are solved when they are filed in court and calls upon the police to recognise the responsibilities incumbent upon them throughout the entire justice process. It calls upon the police to recognise their special responsibilities to witnesses and families of the victims of extrajudicial killings. And it calls upon the government of the Philippines to dispense with petty and meaningless notions of efficiency and get serious about the relentless murders of community and peasant leaders, journalists, human rights defenders, clergy and others that are going on with its tacit approval. Ending the killings is a matter of policy. If the government decides to act, if the police decide to play their role responsibly rather than fraudulently, then it can be done. If not it will be subject to growing international censure over its inaction, and growing suspicions that it has no interest in protecting the lives of its citizens.

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Non-existent victim and witness protection

Most victims of extrajudicial killings in the Philippines have had threats on their lives beforehand; some already having survived earlier attacks. Those who seek protection are frustrated by the unresponsiveness of state agencies that supposedly have obligations to assist in such instances. Many end up dead. Human rights lawyer Norman Bocar was killed in Eastern Visayas on 1 September 2005 (story 69), after seeking protection from the local police because of threats on his life. The police did nothing to assist; nor were they ever held responsible for their inaction.

Section 3 of the Witness Protection, Security and Benefit Act (RA 6981) provides that any person who has “witnessed or has knowledge or information on the commission of a crime” can be admitted for witness protection provided that,

(c) He or any member of his family [has been] subjected to threats to his life or bodily injury or there is a likelihood that he will be killed, forced, intimidated, harassed or corrupted to prevent him from testifying, or to testify falsely, or evasively, because or on account of his testimony.

To the extent that a system of police protection exists under this provision, it works for the rich and powerful with police contacts needing security against persons other than the police themselves. Policemen stationed on protection duty expect to be fed and perhaps housed or transported by the person they are protecting: easy enough for the wealthy, but often impossible for ordinary victims. Their commanders need to be convinced that the threats against the person are real: easy enough for influential persons, but again often impossible for ordinary victims. And police are no protection against other police, as the family of Hernan Baria knows (story 19). They have been living in fear of both the armed men working for a local landowner and

the policemen who killed Baria after he was made the target of a “legitimate police operation” in July 2005, apparently for having led a local land reform struggle.

Officials acknowledge the importance of protecting witnesses but fail to do anything about it. In a letter to the Asian Human Rights Commission dated 25 July 2006, Police Director General Oscar Calderon, the national police chief, admitted that police investigating the murder of Porferio Maglasang Sr. on 22 April 2006 (story 47) were having difficulties “in the filing of charges against the assailants due to the non-cooperation of the witnesses and families of the victim, out of fear for their lives”. The alleged perpetrators are suspected to have links with military intelligence. Despite recognising the need to protect the victim’s family, Calderon did not mention what action had been taken, if any, to recommend witness protection under the act, which is the responsibility of the National Bureau of Investigation once approved by the justice department itself.

Letters from other senior police offer the same excuse for failed investigation, without suggesting any intention to do anything about it. One dated 31 May 2005 from Marcelo Ele Jr., former Police Director of the Philippine National Police Directorate for Investigation and Detective Management (DIDM), stated that “no witnesses had come out in the open for fear of reprisal” over the killings of Ernesto Bang and Joel Reyes on 10 and 16 March 2005 respectively (story 77). He added that in Bang’s case supposedly even “relatives of the victim, when interviewed revealed that they are no longer interested in filing the case due to the absence of a witness who could identify the suspect”. Another dated 29 July 2005 from Chief Superintendent Charlegne Alejandrino, deputy director for DIDM, added that the police could do nothing unless the witnesses “come out in the open and willingly support the prosecution of these cases”. Again there was no mention of what action could or would be taken towards this end by way of witness protection or otherwise.

While the police fail to offer any guarantees to protect witnesses, the perpetrators offer ample proof of what they will do to anyone who threatens to expose them. The lone witness who came forward in Reyes’ case, Dario Oresca, was also killed within days of Reyes. Despite the threats against him, he had no security; nor was there even an attempt to arrange any for him. His case too has not gone to court: both his death and the subsequent repeat failure of justice make an utter mockery of the complaints of senior police officers that witnesses have failed to come forward in this and other similar cases.

Not only the police but officials of other agencies, including the Commission on Human Rights of the Philippines, have admitted to the failure of the witness protection act. The commission’s special investigator in Naga City, Raymundo de Silva, has concluded that the programme is “not yet thoroughly understood by the populace”. Although the commission has rightly pointed to the need to give the public more information on the

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**—Police Director
Marcelo Ele Jr.**

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**—Justice Secretary
Raul Gonzalez**

programme, it is obvious that this will be pointless if the police and justice department persistently fail in their obligations. The police, including senior officers, fail to give immediate security to at-risk witnesses and get them admitted to witness protection arranged by the department. They call for witnesses to come forward but fail to guarantee protection and then blame them for failed cases.

The failure of the witness protection programme must be attributed squarely to the rotten condition of its implementing agency, the Department of Justice. Public prosecutors, who are its officers, have also failed in their duty to refer witnesses for inclusion in the protection programme. Even in the most serious cases of extrajudicial killing, torture and disappearance, they are not known to have made recommendations and applications for protection. This failure is all the more glaring since October 2006, when Justice Secretary Raul Gonzalez ordered public prosecutors and witness protection agents “to proactively search, secure and protect material witnesses” in a bombing incident in Mindanao. While the department went out of its way to see the bombing witnesses brought into the programme, it has made no such effort for the witnesses to the hundreds of extrajudicial killings and other serious crimes in recent times.

The justice secretary is directly responsible for the witness protection programme, as recommendations on protection must obtain his endorsement, and as the programme operates under his oversight. Yet instead of ensuring that his department works effectively for all witnesses in need of protection, Justice Secretary Gonzalez has on several occasions blamed witnesses and families of the dead for not cooperating. On 3 August 2006 Gonzalez was quoted by an online newsgroup *People's Journal* as saying that the failure to prosecute cases was the fault of victims' relatives, adding that, “They want us to solve the cases. But they did not cooperate. They are hypocrites.” Needless to say, the making of such remarks by the senior bureaucrat responsible both for witness protection and prosecutions does little to raise confidence in his rotten department among the persons whom he has admonished. Rather, he has succeeded only in further isolating them from the offices of the state.

Attempts by the Asian Human Rights Commission and others to have Secretary Gonzalez acknowledge his department's responsibility in these cases have been unsuccessful. He and his department have in reply offered only generic assurances that they have “given safe havens to scores of witnesses who fears reprisals”, without any evidence of the same or explanations as to why persons such as Norman Bocar and Dario Oresca, or the families of Joel Reyes, Ernesto Bang and Porferio Maglasang Sr. have never received such services. The fact that extrajudicial killings and abductions are going on unabated and unaddressed in the Philippines speaks to the abject failure of the justice department to offer witness protection as it is mandated, despite its claims to the contrary.

A Statement by the Asian Human Rights Commission

Task force on killings must start with witness protection

AS-120-2006, May 26, 2006

On May 12, the Department of Interior and Local Government formed “Task Force Usig”, a police-led investigative unit to probe the unrelenting killings of activists and family members in the Philippines. The task force has publicly admitted that the two big difficulties it has are that witnesses cannot be located or are unwilling to cooperate; and, that victims’ families and local support groups are sceptical about the task force and reluctant to get involved.

The reluctance of witnesses and victims’ families to cooperate with police investigators comes as no surprise. The police have themselves been implicated in the abductions and killings. For instance, one of the three hooded men who attempted to take the life of labour leader Gerardo Cristobal in Imus, Cavite on April 28 was allegedly police intelligence officer SPO1 Romeo Lara. In many other cases too state agents are suspected of involvement.

(Continued overleaf)



Justice Secretary Raul Gonzalez presents a high-profile witness under protection of the National Bureau of Investigation

PHOTO: REUTERS/ Joe Chan

Although Task Force Usig has publicly recognised that it has a problem with cooperation by witnesses and relatives of victims, it has not yet recognised that the reason for this is the lack of effective witness protection in the Philippines. In fact the failing undermines the country's entire judicial system. The government and Commission on Human Rights of the Philippines too have publicly accepted that these killings are a "gross violation of rights" and a "failure of the justice system" without making this connection, and taking steps to remedy the situation by legislative and judicial means.

The Asian Human Rights Commission (AHRC) recalls the recommendations of the UN Human Rights Committee in its concluding observations on the Philippines' compliance with the International Covenant on Civil and Political Rights in December 2003. The Committee clearly stipulated that, "The State party [Philippines] should adopt legislative and other measures to prevent... violations, in keeping with articles 2, 6 and 9 of the Covenant, and ensure effective enforcement of the legislation" (para. 8a). This means giving witness protection as stipulated under the existing law, and through constant application of the law, improvements in procedures and measures as necessary.

Without witness protection there can be no fight against impunity. A legal system that promotes justice but does not set in place the means to protect witnesses is a fraud. When victims of human rights abuses understand this, naturally they do not come forward to assert their rights against the perpetrators. No attempt is even begun to make complaints and assert rights. The victims remain silent, inert and fearful. If fear prevails, evidence cannot be collected. When evidence is not collected, the courts either do not take up cases or dismiss the charges against the accused, as the judge can only consider what is brought before the court. In this manner, the perpetrators of torture, extrajudicial killings and forced disappearances routinely escape justice...

Protecting witnesses is a duty of the state. This is a fundamental and globally-established principle. Where the state declines to protect witnesses, it denies justice to society. The state must find the people, money and means to do this. A state that talks about witness protection but does not allocate funds and resources for that purpose fails in its duty. But the real problem in setting up a witness protection programme is not money; it is about the place of witness protection in state policy. Where the importance of protecting witnesses to obtain justice is understood and articulated, an authority to give effect to this policy can be quickly established and developed. There are many available resources for such work these days. Where witness protection is limited or non-existent it is primarily a question of understanding and official will. This is the real problem that now faces Task Force Usig...

Forming a task force is one thing, going to the root problem is another. While Task Force Usig is a welcome initiative, it will be meaningless unless accompanied by a firm effort to provide witness protection. Task forces come and go, but the unsolved killings continue. The task force set up to look into the murder of human rights lawyer Norman Bocar on 1 September 2005, for instance, has not made any progress for the same reason that no other cases have been resolved: the failure to recognise witness protection as the precondition to effective investigations and fair trial. The credibility of Task Force Usig depends upon it starting by recognising and addressing this primary obstacle to justice for the victims of killings in the Philippines...

In his 21 February 2007 comments on his visit to the Philippines (see appendix I), UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Professor Philip Alston, stressed the link between impunity and the absence of witness protection in the Philippines:

The vital flaw which undermines the utility of much of the judicial system is the problem of virtual impunity that prevails. This, in turn, is built upon the rampant problem of witness vulnerability. The present message is that if you want to preserve your life expectancy, don't act as a witness in a criminal prosecution for killing. Witnesses are systematically intimidated and harassed. In a relatively poor society, in which there is heavy dependence on community and very limited real geographical mobility, witnesses are uniquely vulnerable when the forces accused of killings are all too often those, or are linked to those, who are charged with ensuring their security. The WPP is impressive—on paper. In practice, however, it is deeply flawed and would seem only to be truly effective in a very limited number of cases. The result, as one expert suggested to me, is that 8 out of 10 strong cases, or 80 per cent fail to move from the initial investigation to the actual prosecution stage.

Ineffectual and biased prosecutors

Public prosecutors in the Philippines depend upon police investigators to do their jobs. They do not have a role in the investigation process itself, and lack the capacity to evaluate reliably all facts submitted by the police. Investigators give credence to police findings without due considerations of other factors, such as allegations of torture or irregularities in investigation by the accused, as in the case of the 11 teenagers arrested and tortured in Benguet: despite their insistence that they were forced to confess under torture to crimes that they did not commit, and that the evidence against them was fabricated, the prosecutor persisted with recommending that the case go to court. The victims' claims were not taken seriously by the prosecutor. The court first ruled that the police had arrested the victims illegally, and stopped short of a judgment on the charges themselves. The defence then filed a petition for reinvestigation, which the court approved, and subsequently dismissed the case for lack of evidence. In the meantime, the lives of the victims had been put at grave risk while they were kept in jail awaiting trial. Similarly, when police allegedly attempted to kill Gerardo Cristobal and then filed frustrated murder and attempted murder charges against him the same day of the incident the prosecutor indicted Cristobal in court, knowing full well that the case was based upon a report prepared and filed by colleagues of the police he had accused of attacking him. The prosecutor did not inquire into Cristobal's claim.

In practice, the burden to disprove fabricated or sloppy police investigation reports rests upon the accused. Victims of abuse are treated with cynicism and hostility, as shown by one state prosecutor in May 2006 who told a newspaper that it is "normal for accused people to claim [forced confession by] torture". Even in cases where allegations of torture are given credence, there is no law prohibiting and penalising the use of torture in the

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Philippines, or means for such complaints to be properly investigated and the victims rehabilitated. Section 6 of Rule 110 of the Rules of Court requires that a complaint can only be sufficient if it “designate an offense by the statute”. Without a law the prosecutor cannot act on allegations of torture, even in the rare instance where one may be interested to do so.

Prosecutors make little or no attempt to conceal bias in their handling of criminal complaints. For instance, eight workers were arrested and illegally detained in Rosario, Cavite on 28 September 2006 (story 99); while being taken to the police station, an arresting officer allegedly threatened one of the victims. The prosecutor indicted the group for trespassing but reportedly refused to register complaints against the police, saying that the workers filed them just to get even with the arresting officers. In another case, the decision by a prosecutor to exonerate a military sergeant and his men for the killing of Talib Japalali and his wife Carmen in Tagum City (story 81) was reversed by the Office of the Ombudsman for Military and Other Law Enforcement Office based on forensic evidence suggesting grounds upon which to lay charges. Even though the prosecutor had showed either partiality towards the accused or a lack of understanding of forensic evidence, he was still appointed to handle the case in court. Appeals for his replacement by the victims’ relatives have not yet been acted upon.

Once a prosecutor has brought a case into court it is extremely difficult to get it withdrawn. One example is the arrest and subsequent prosecution of Haron Abubakar Buisan in General Santos City (story 108). The police who arrested him insisted that he was Ariel Bansalao, a person wanted for robbery and homicide, and that he had been using various aliases. They allegedly tortured him into making a confession. However, he and his relatives have insisted that he is not the same person, and have produced schools records, village certification, and testimonies from persons known to him to support their claims. But the prosecutor proceeded to file a case against him as Ariel Bansalao. Buisan appealed and obtained a reinvestigation; however, the reinvestigation only reaffirmed earlier conclusions that he was not arrested on mistaken identity: there was no actual reinvestigation. Nor have the victim’s allegations of torture ever been investigated, or other irregularities been addressed.

The extent of bias is again best illustrated by the head of the Department of Justice himself. Secretary Gonzalez has gone out of his way to defend the government by flatly rejecting legitimate grievances about the inability of the authorities to stop extrajudicial killings, referring to them as “black propaganda”. He has adopted the language of the military and insinuated that unseen forces have taken advantage of the situation as “one way to destabilize the government” by way of creating lawlessness within the country, thereby putting the government into shame in the international community: as if the government was not

sufficiently adept at creating lawlessness and putting itself to shame. In a letter to the Asian Human Rights Commission of 18 October 2006 he stated that while his department too is “anxious to put a stop to this situation” he went on to make baseless and profoundly disturbing comments to the effect that complainants “may themselves be guilty of such extra-judicial killings” and for this purpose “are promptly pointing their fingers and eagerly complaining the loudest against the government”. At the end of his letter, Gonzalez could not help but take a stab at the commission directly:

It appears from your letter that you know a lot more of our country than other non-Filipinos and feel comfortable in ‘urging’ us to do your bidding. Interference from foreign nationals are things [sic] we can do without.

That Secretary Gonzalez feels safe in making open presumptions about the guilt or innocence of persons lodging criminal complaints and indicating that the extent of assistance given by his department depends upon what conclusions are drawn by its officers as to the merits of the complainant rather than the complaint speaks volumes about the rot at all levels of the criminal justice system of the Philippines. The making of veiled threats against groups abroad expressing legitimate and serious concern about the inability of his department to do anything to address grave abuses of human rights is also remarkable, not least of all in view of the country’s membership on the UN Human Rights Council, a seat which it sought on the basis of supposed compliance with international standards and cooperation with international bodies. As the secretary is also chairman of the Presidential Committee on Human Rights, which has among its responsibilities to ensure that the government policy is in keeping with human rights principles—a job that he also seems to be doing particularly badly—the secretary must be aware of the government’s treaty obligations, yet he appears to hold them in very low regard.

Labelling “enemies”

In April 2005 the Intelligence Services of the Armed Forces of the Philippines produced a PowerPoint presentation entitled “Knowing the Enemy: Are we missing the point?”, which included a list of organisations and persons—among them human rights and labour groups, religious organisations, media institutions, political parties and persons critical of the government—who are “influenced by communists”. The presentation was distributed on compact disc and was shown to villagers and otherwise used in communities where the military was conducting so-called civilian-military operations.

The “Knowing the Enemy” presentation followed the release of a book by the former chief of Northern Luzon Command, Lieutenant General Romeo Dominguez (retired) entitled, *The Trinity of War*, in which he also identified specific individuals and organizations as sympathizers, supporters, if not outright

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members, of the Communist Party of the Philippines or the New People's Army. Some of the individuals named in that book were subsequently killed by persons using very similar methods: usually riding motorcycles with ski masks or other face covers, and using vehicles with no number plates.

At the time that the “Knowing the Enemy” CD was distributed, Brigadier General Jose Angel Honrado, chief of the army Civil Relation Services, denied that it contained a “hit list”; however, there was subsequently a dramatic increase in the number of victims, in particular those attached to the organisations listed, extrajudicially killed, tortured or disappeared. Affiliated groups or individuals have also become targets.

For instance, Marilou Sanchez and her brother Virgilio Rubio, both members of the legally-registered Bayan Muna party, were allegedly killed by troops on 22 April 2006 (story 48). The military has tagged Bayan Muna as “aligned with the CPP/NPA”. Soldiers entered the victims' house to capture Marilou's husband, Hilario, whom they accused of being a communist rebel. Hilario, a village chief, denied this; however, the soldiers allegedly started beating him, and subsequently tied his wife and brother-in-law to separate posts before shooting them dead; Hilario broke loose and escaped into the surrounding area. There has been no information available as to what investigation, if any has been conducted into the incident.

Under section 14(2) of the Constitution of the Philippines “the accused shall be presumed innocent until the contrary is proved”. In practice the public labelling of accused persons or victims as “communist fronts”, “destabilizers”, “enemies of the state”, or “terrorists” negates this presumption and allows officials to do away with due process. The double standards in implementation of laws are most obvious in cases where such labels are applied. The use of labels also exposes victims, their families and colleagues to the possibility of further violence, and denies them any hope of protection. Once a person or organisation has been labelled “leftist” or “enemy” then there is no possibility of safety. Whatever they may or may not have done, they are in a special category of persons and groups guilty by suspicion, for who the ordinary laws and procedures, to the limited extent they operate for everyone else, are suspended.

Anybody extrajudicially killed in the Philippines is likely to be labelled a leftist by virtue of the police having made a blanket assessment that these killings are the result of an “internal purge” within the communist movement. In a letter to the Asian Human Rights Commission of 26 July 2006 Chief Superintendent Rodolfo Mendoza, deputy director for the Directorate for Investigation and Detective Management, stated that,

The document entitled “Cleansing Bushfire” specifically disclosed the order by the National CPP/NPA [Communist Party of the Philippines/New People's Army] leadership of launching special operations by special teams targeting enemy agents which had penetrated the ranks of CPP/NPA, referring to the enemy spies and counter revolutionaries working against the movement and other legal organisation [sic].

In his letter, Chief Superintendent Mendoza implies that communist rebels have perpetrated most of the killings. His opinions were reflected in the 18 October 2006 letter from the Secretary of the Department of Justice, Raul Gonzalez, who while acknowledging that “suspicions alone do not give the police authorities the green light to make arrests”,

We strongly deny, as evidence in the possession of the authorities will support this, that such killings are government-inspired. [The] majority of these killings were done by elements of Communists, the NPA, who pass themselves off as peasants but who are in practice and in reality, no more than bandits.

While Secretary Gonzalez claims that the killings are not government-inspired, public statements by military officials and the consistent pattern of police and official inaction towards killings, particularly those that have followed labelling of individuals or groups, speaks to the opposite. For instance, retired Major General Jovito Palparan Jr., former head of the 7th Infantry Division, was quoted by the *Philippine Inquirer* on 22 August 2006 as saying that,

We are encouraging people to fight this problem. If the people, who have been victimized by insurgents, decide to take it upon themselves to get even with the enemy, that is their individual responsibility. They know who were responsible for these killings before we came in. I have encouraged the people to take the law into their own hands.

Despite the weight of national and international opinion against him, Palparan was not sanctioned for making such statements, instead enjoying support from government officials, including President Gloria Macapagal-Arroyo, who had lauded him for his anti-insurgency campaign during her State of the Nation Address in July 2006.

In October Secretary Gonzalez even offered Major General Palparan a consultancy with his department. When challenged about the alleged gross abuses of human rights committed by Palparan and his subordinates, Gonzalez replied that these have “not yet been proven”. Presumably with his oversight of the “justice” department they are unlikely to be.

However, military and official denials of responsibility have become irrelevant since the findings of the presidentially-appointed Melo Commission—announced at the end of January 2007—that the killings are linked to the armed forces and that the police and justice department had failed to address them effectively (see appendix II). On Palparan specifically the commission noted that:



PHOTO: REUTERS

“I have encouraged the people to take the law into their own hands”

**—Major General
Jovito Palparan Jr.**



PHOTO: REUTERS

“some members of the AFP have been involved in the deaths of **some** members of militant organisations”
—AFP Chief, General Hermogenes Esperon

General Palparan’s statements and cavalier attitude towards the killings inevitably reveals that he has no qualms about the killing of those whom he considers his enemies, whether by his order or done by his men independently. He mentions that if his men kill civilians suspected of [communist] connections, “it is their call,” obviously meaning that it is up to them to do so. This gives the impression that he may not order the killings, **but neither will he order his men to desist from doing so.** Under the doctrine of command responsibility, General Palparan admitted his guilt of the said crimes when he made this statement. Worse, he admittedly offers encouragement and “inspiration” to those who may have been responsible for the killings.

According to the *Philippine Inquirer* of January 30, these findings led to recognition by the armed forces chief, General Hermogenes Esperon, that “some members of the AFP have been involved in the deaths of some members of militant organizations”. Additionally, before the Melo Commission he “refused to categorically state that the AFP has absolutely nothing to do with the killings of activists, as such [a] statement might be too presumptuous”.

Notwithstanding, the police investigate such incidents with an eye on proving that the killings are perpetrated by rebels, or are the result of “legitimate operations”, rather than to gather evidence with which to identify and prosecute the perpetrators. In Palo, Leyte, eight villagers died—including a seven-month-pregnant woman—when soldiers opened fire at a house that they claimed was used by rebels (story 66). The incident was described as a legitimate encounter with armed groups, rather than a massacre.

Police in Palo conducted investigations on the basis of the military’s account, and filed fabricated charges of illegal possession of firearms and ammunitions against surviving victims, who were described in the police report as “captured enemies”. In November 2006 the court dismissed the case as “the prosecution failed to establish the ownership or possession of any of the guns by the accused”; i.e., they had been planted. Although the victims were exonerated, none of the actual perpetrators has ever been held to account. Notwithstanding, multiple murder charges were lodged against the soldiers on 21 November 2006, one year after the incident. The police involved in producing false investigation reports have not been held accountable.

The investigation function is thus completely perverted, directed towards justifying and explaining away killings rather than punishing and stopping them. And under any circumstances, if indeed the police and justice department had proof that the killings have been perpetrated by rebels, still they

cannot excuse themselves of their failures to protect the lives of victims, bring cases to court, and prevent further incidents from occurring.

Among those commonly labelled and targeted are labour rights defenders and union organisers. Labour leader Enrico Estarez was forced into hiding after the military accused him of involvement with the communist movement and soldiers started harassing him and his colleagues, three of whom were arrested and tortured after being invited for questioning (story 107). The three claim that they were forced to provide information on persons unknown to them and sign fabricated statements implicating such persons who were labelled by the military as “communist rebels”. Similarly, Private First Class Rommel Felipe Santiago admitted under police questioning on 5 October 2006 that he had been assigned to tail labour leaders on their way to a law office that provides legal services for workers, and that he was on duty at the time. He was released after a short time and no further effort is known to have been made to identify who had ordered him to conduct surveillance or for what purpose.

Church workers also are often the subject of attacks and baseless allegations. The United Methodist Church has reported that Librado Gallardo and his wife Martina of Nueva Ecija committed suicide in November 2006 after being tortured by the military over their alleged support for communist rebels. Gallardo was chair of the local church council. The church has claimed that the couple took their lives because of continued intimidation by the personnel of the 48th Infantry Battalion stationed in Barangay Conversion, Pantabangan. The couple’s nine children are now orphaned and traumatised, and have also been forced to separate because of continuing threats.

One of the human rights groups on the army’s list of those “influenced by communists” was Karapatan. On 22 August 2006 eight Karapatan volunteers were arrested and allegedly tortured and falsely charged because of assistance they rendered to the family of Raquel Aumentado, who was reportedly killed in an encounter between the military and insurgents in Mulanay, Quezon (story 100). The military charged them with rebellion but the prosecutor proceeded with a case of obstructing justice. It was reported that one of the grounds for suspicion that they were rebels was that they had mud on their legs. In other cases, Karapatan volunteers have been refused assistance in inquiries by soldiers because they are supposedly communists.

Also in August 2006 Major General Palparan, after being identified by Amnesty International as connected with extrajudicial killings, was quoted as saying that, “I cannot blame the people [of Amnesty] because they are invited here and the invitation comes from the enemies of the state”; i.e., the local rights groups that may have helped Amnesty gather information. An association of retired and active senior army officers proposed that Amnesty be barred from the country. It is not known as to whether or not the proposal has been followed, but in December

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—Major General Jovito Palparan Jr.

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a member of the International Labour Rights Fund was refused entry to the Philippines; he had earlier joined a mission on labour rights and extrajudicial killings of labour leaders in the Philippines during May 2006, and had been actively working with local groups that have been labelled as “enemies of the state”.

Others have been taken away for no more than non-cooperation. Brothers Reynaldo and Raymond Manalo were arrested and allegedly forcibly disappeared by armed men identifying themselves as soldiers who entered their house in February 2006, after they had refused to cooperate with troops trying to locate their neighbour and for not participating in a meeting called by the military on their anti-insurgency campaign (story 95).

Whereas the highest levels of government should be issuing explicit orders to prohibit the use of public labelling by soldiers and law-enforcement officers, the practice is becoming increasingly widespread, and is now virtually a de facto policy. National Security Adviser Norberto Gonzales has pushed for official labelling of party list political organisations with supposed links to the communist movement in the forthcoming May 2007 elections. Gonzales has not named specific parties himself, but five alone were listed in the army’s “Knowing the Enemy” presentation, and unsurprisingly the proposal is known to be popular among the military. The effect of such tagging of registered political parties would be just short of declaring them illegal, and would imply that any persons voting for them are also “influenced by communists”. And in case anybody is as yet in any doubt about the implications of that tag, Major Michael Samson, the military Civil Relations Service group commander, said in an interview of 18 January 2007 that, “In the Armed Forces’ continued campaign against communism, those that were either supportive or sympathetic to the communist movement were considered as enemies of the state.”

The wider consequences on the Philippines’ electoral system and democracy would be profound and far-reaching. Tagging not only exposes individual political organisations and persons to violence and persecution, but undermines the entire exercise of government and challenges the rights of all citizens to participate in legitimate political activities.

The persistent official tolerance of public labelling of persons and organisations as “communist fronts” by military and other security officers speaks to the complicity of the government in the unrelenting killings and violence throughout the Philippines. For this reason the killings are—contrary to the conclusion of the Melo Commission—certainly attributable to the military organisation and the state itself. Official tolerance excuses policing and prosecuting agencies from their abject failure to successfully identify and prosecute perpetrators. It is contradictory to accept, as the commission has done, that there exists a pattern of killings that can be linked to the military while denying that this a systemic problem that goes to the heart of the rot in the Philippine criminal justice system.

A Statement by the Asian Human Rights Commission

Concerted attack on human rights groups must be strongly resisted

AS-286-2006, November 17, 2006

In what appears to be a concerted attack on the entire human rights movement in the Philippines, army, civilian and police officials have all made scathing statements describing the work of rights groups there as “propaganda”.

On November 15, a group of retired and active senior army officers in the Philippines declared that Amnesty International members should be barred from the country for accusing the military of being behind extrajudicial killings. The influential Association of Generals and Flag Officers said in a resolution that the human rights group had documented incidents based upon the testimonies of militants, and that its allegations were biased. The declaration against Amnesty has reportedly been endorsed by the armed forces.

Meanwhile, in another report, a senior official accused rights groups of spreading “propaganda” about the killings for political purposes. The aggressive defence of the government by Press Secretary Ignacio Bunye followed an unprecedented appeal by the Joint Foreign Chambers of Commerce in the Philippines, warning that the ongoing violent attacks could affect investment. The press secretary also specifically named local group Karapatan as being responsible for spreading untruths, and said that his government would “sit down with foreign investors to give the facts”.

In a further report, Philippine National Police (PNP) Deputy Director General Avelino Razon Jr. also claimed that Karapatan had greatly inflated the number of killings, and incredibly, compared the work of the group to that of Nazi Germany: “The group is adhering to the Nazi propaganda lines of consistent lies, distortion of objective facts, continuous lies and half-truths made popular by Hitler’s propagandist Goebbels during World War II.” Ironically, the deputy director general is the head of Task Force Usig, the main unit inside the police force investigating the killings...

The attacks are clearly aimed at intimidating all human rights groups working in the Philippines. In fact, they constitute a threat to the entire human rights movement. In targeting Amnesty, a large and internationally-renowned group, the military generals have made clear that anyone else could be next, if they too attempt to document and report on the incidence of killings and other gross abuses.

Ultimately, these are much more than simple reactions to the latest reports of domestic and international rights bodies. They are manifestations of an extreme, deep-rooted bias against human rights defenders. This resistance to human rights standards, and bias against persons who work to achieve them, is also manifest in the persistent denial about the extent and nature of the killings that the government is being called upon to address...

The Asian Human Rights Commission (AHRC) calls upon the government of the Philippines to unequivocally denounce the resolution passed by the Association of Generals and Flag Officers against Amnesty International, require the police to justify its outrageous statement comparing a local rights group to the Nazi regime, and publicly retract the remarks of its press officer...

The struggle for the victims of extrajudicial killings in the Philippines is no less than the struggle for the survival of democracy and some notion of the rule of law there...

Command irresponsibility

“the superior officer is responsible for crimes committed by his subordinates for failing to prevent or punish them”

—Melo Commission

Even though the Melo Commission concluded that Palparan and other military commanders are liable for killings under the principle of command responsibility, there is as yet no clear indication of how the government intends to deal with senior officers found to be complicit in grave human rights violations.

The doctrine of command responsibility in the Armed Forces of the Philippines is stipulated in its Circular No. 28, Series of 1956, which holds that for military commander to have criminal and civil liability in abuses committed by his subordinates, three elements must be proven: that those committing the atrocities were under his command; that the commander knew or should have known that the subordinates were engaging in impermissible conduct; and, that the commander failed to prevent or punish those responsible.

In its findings (see appendix II), the Melo Commission discusses the principle of command responsibility at length, and—while reaching dubious conclusions—notes clearly that:

Contrary to the apparently inaccurate notion of command responsibility entertained by some officers in the [Armed Forces of the Philippines], command responsibility in the modern international law sense is also an omission mode of individual criminal liability wherein the superior officer is responsible for crimes committed by his subordinates for failing to prevent or punish them (as opposed to crimes he ordered).

To establish the three elements requires careful collection of evidence and use of witness testimony; yet in the Philippines prosecutions in even ordinary criminal cases fail due to inadequate evidence and frightened witnesses. To collect sufficient evidence and obtain witness testimonies upon which to hold powerful senior officers accountable will be a task far beyond the country's rotten criminal justice system unless it is subjected to serious reform. So far the government has shown no commitment to taking any steps that may lead to the notion of command responsibility being made real. Despite persistent serious allegations against Palparan and his men in particular, there has never been any attempt to have them investigated or sanctioned by a binding authority.

The sheer impunity enjoyed by soldiers and their commanders is apparent in the case of Bacar Japalali and his wife Carmen, who were killed in Tagum City during September 2004. Even though prosecutors and the court established probable cause upon which to arrest and charge a military sergeant and 31 of his men with the killings, the court broke with practice and insisted upon all of the accused being named before the issuing of warrants for arrest. The superior officers of the accused refused to name their subordinates; they themselves have not been held responsible for this denial of information to the court, or for the killing. The court order remained pending and arrest warrants not issued for some two years; although the warrants were finally issued, the local police were reportedly too afraid to serve them; the respondents have meantime been transferred to another tour of duty and are no longer in the locality.

A Statement by the Asian Human Rights Commission

Publish report, protect witnesses & prosecute Palparan

AS-023-2007, February 2, 2007

The Asian Human Rights Commission cautiously welcomes the findings of the Melo Commission that retired Major General Jovito Palparan Jr. and other military officers could be held liable for the unabated extrajudicial killings of human rights defenders, social campaigners, priests, political organisers and others in the Philippines. The final report of the commission, which was headed by former Supreme Court Justice Jose Melo, handed to the president this week, reportedly points to the complicity of military officers in the killings and suggests that Palparan and others had command responsibility for the deaths.

The inquiry's conclusion puts to rest police and military claims that the allegations against Palparan and his men are unsubstantiated. That the army is culpable for extrajudicial killings is no longer a matter of doubt: so what happens next?

The police and military predictably sprang to the defence of Palparan and his subordinates. In separate media interviews on January 30, Deputy Director General Avelino Razon and General Hermogenes Esperon Jr., chiefs of Task Force Usig and the Armed Forces of the Philippines (AFP) respectively, made remarks that there were no evidence against Palparan and he is no longer under military's jurisdiction, since he retired in September 2006. The comments from Razon are all the more remarkable given that his task force was established to hunt for the persons responsible for killings, not defend the accused. They are also in direct contradiction to the Melo Commission, which based its findings largely upon police documents, as most complainants and witnesses refused to cooperate because of distrust and fear. The commission has admitted that its work was hampered by the lack of cooperation; notwithstanding, it was still able to obtain sufficient evidence to establish that the military could be held accountable.

The enormous threats facing witnesses and families of dead victims or those who have survived attacks are the biggest obstacles to obtaining justice and redress in cases of extrajudicial killing in the Philippines. The Asian Human Rights Commission has repeatedly drawn attention to the absence of protection for these persons as the primary reason that investigations there fail. For the police agency given the task of investigating persons alleged to have been involved in the killings to reject the findings of a presidential commission off-hand, instead of reviewing and building evidence against those identified as responsible, is completely unacceptable.

The police are duty-bound to recommend complainants and witnesses be given protection through the justice department, under the Witness Protection, Security and Benefit Act (RA 6981). If they have not done this promptly they are either negligent or ignorant. The result in either case is that it is much easier to reach the convenient conclusion that there is a "lack of evidence".

It is also ridiculous for the military to excuse itself from responsibility. The obligations of any armed forces for the actions of its personnel do not expire when someone retires from service. Esperon's acknowledgement that army personnel may have been involved in killings must be more deeply probed. Have any of the implicated persons ever been sanctioned, disarmed or punished? What action, if any, has been taken against them? These questions remain altogether unanswered. *(Continued overleaf)*

The killings will only end when there are prosecutions. There will only be prosecutions when witnesses and victims are protected, rather than threatened and killed themselves, and the perpetrators are investigated, rather than defended. The Melo Commission has no power upon which to initiate these things itself. The responsibility instead rests on the person who ordered the inquiry: President Gloria Macapagal-Arroyo. She is now obliged to see that its findings are given meaning, and the responsible state agencies, notably Task Force Usig and the justice department, do their jobs and the accused, including Major General Jovito Palparan Jr., are brought before courts of justice. She must also have the report made public without delay, in order that there is complete disclosure of its findings. Withholding of the report will only deepen public distrust in her administration, and raise further doubts about the assurances of her government that it is acting in the interests of the victims and their families.

Conclusion

When the Philippines became a party to the International Covenant on Civil and Political Rights in 1987 it signified the birth of a new era for the protection and promotion of human rights in the country. But the significance of this and other steps to uphold human rights must be measured in terms of implementation. Article 2 of the Covenant stipulates that where persons' rights are violated, they must be afforded remedies. This means investigating and prosecuting the perpetrators, and compensating and rehabilitating victims. In his annual 2005 report to the UN Commission on Human Rights, the Special Rapporteur on extrajudicial killings spelt out what this means where a pattern of killings occurs:

In most situations, the isolated killing of individuals will constitute a simple crime and not give rise to any governmental responsibility. But once a pattern becomes clear in which the response of the Government is clearly inadequate, its responsibility under international human rights law becomes applicable. Through its inaction the Government confers a degree of impunity upon the killers.

The Philippines is now faced with a very serious threat to its fragile democracy and institutions for the rule of law. So far the government response has been characterised by inaction and a lack of proper direction over the police, justice department and army, which acting in interests other than those of the public have invariably made the situation worse. The government must now counteract these steps in the wrong direction and demonstrate that it has the will and is willing to make the reforms necessary to dig the rot out of its criminal justice system and erase the name of impunity from its face.

Rotten to the core: Unaddressed killings, disappearances & torture in the Philippines

Killing & attempted killing

Pepito Santillan: Killed for claiming land that had been legally awarded him

At around 2am on 25 January 2007, Pepito Santillan, a 62-year-old farmer, was shot dead in front of his house in Hacienda Velez-Malaga, Barangay Robles, La Castellana after unidentified armed men threw an empty bottle into his house and he went out to check what was going on.

Santillan was the sixth member of agrarian reform group Task Force Mapalad to be killed in Negros Occidental since 2001 in their efforts to obtain and use 144 hectares of land in Hacienda Velez-Malaga that has been awarded to them by the Department of Agrarian Reform through the Comprehensive Agrarian Reform Program. The land is part of 446 hectares of sugarcane estate owned by the Cuenca family, which it has refused to surrender, despite the government order and a 2004 Supreme Court ruling in favour of the farmers, followed by an order in September 2006 from agrarian reform secretary, Nasser Pangandaman, for the farmer beneficiaries to occupy the land themselves. However, the schedule of entry of the farmers to the land was postponed despite this order.

On January 24 the task force members came with the agrarian reform beneficiaries to take the land on their own, including Pepito Santillan. Fighting broke out between the farmers and security guards that evening. Pepito's nephew, Fernando Santillan, and Rey Cortejo were seriously injured, along with the chief security guard, Enrique Maliksi, and Renato Mata, a farm worker of Cuenca. The killing occurred just a few hours later.

1

VICTIM: **Pepito Santillan**
INCIDENT: **Killing**
ALLEGED PERPETRATORS:
Unidentified gunmen
DATE: **25 January 2007**

AHRC UA-047-2007

“ it pains me to hear and know that people don't value life anymore and justice is trampled upon in our dear country the Philippines—please stop all the irrational killings in our country ”

—*Ditma Trocio, Hong Kong*

ALL QUOTES: www.pinoyhr.net

Prof. Jose Ma Cui: Shot dead in classroom

On 19 January 2007, Professor Jose Ma Cui of the department of history and communication arts of the University of Eastern Philippines, Northern Samar, was shot dead in front of his students by two armed men in balaclavas. The students were taking their mid-term exams when he was shot at around 3:35pm in the classroom at the College of Engineering building on campus. Cui died on the spot from .45-calibre pistol gunshot wounds to his head and chest. The gunmen fled on a motorcycle in the direction of Mondragon town, which is towards a military camp some 2km distant.

There was no immediate progress in the police investigation. The police said that witnesses were unwilling to provide information.

Professor Cui was former secretary general of human rights group Katungod-Eastern Visayas, the regional chapter of national human rights organization Karapatan, and chairman of the Employee Association of the University of Eastern Philippines, as well as being involved in the Confederation for Unity, Recognition and Advancement of Government Employees-Northern Samar (Courage-NS), and the Anti-Corruption Network (ActNow!). He was also one of the founding members of the Bayan Muna party in Northern Samar.

Long before the incident the victim had been targetted in a smear campaign by the armed forces, and in 2004 a complaint of libel was lodged against him by the former commanding officer of the 63rd Infantry Battalion, Colonel Manuelito Usi.

2

VICTIM: Jose Ma Cui
INCIDENT: Killing
ALLEGED PERPETRATORS: Two unidentified gunmen
DATE: 19 January 2007

AHRC UA-040-2007

“stop the killing
and harassment of
those working for
social justice”

—Noeline Gannaway,
New Zealand

Glossary

AHRC	Asian Human Rights Commission
Barangay	Village
Cafgu	Citizen's Armed Forces Geographical Unit (militia)
IB	Infantry Battalion (Philippine Army)
ID	Infantry Division (Philippine Army)
IFI	Iglesia Filipina Independiente (Philippine Independent Church)
Karapatan	Alliance for the Advancement of People's Rights
NBI	National Bureau of Investigation (Department of Justice)
NolCom	Northern Luzon Command (Philippine Army)
NPA	New People's Army (insurgent group)
PPMG	Provincial Police Mobile Group
PNP	Philippine National Police
PO	Police Officer
RMG	Regional Mobile Group (PNP)
SPO	Senior Police Officer
UA	Urgent Appeal
UP	Urgent Update

VICTIM: Nathaniel Pattugalan
INCIDENT: Killing
ALLEGED PERPETRATORS:
Two unidentified gunmen
DATE: 19 January 2007

AHRC UA-040-2007

Judge Nathaniel Pattugalan:

Killed after issuing warrants for police and politician

On 19 January 2007, Judge Nathaniel Pattugalan, acting presiding judge of the Quezon City Metropolitan Trial Court Branch 35 was shot dead at around 6pm in front of the Department of Agrarian Reform building, on his way home. The victim was sitting in a passenger jeepney near the driver when he was shot in his chest by an armed man riding pillion on a motorcycle while the vehicle was stopped; the bullet pierced his heart. The two had apparently followed Judge Pattugalan from his office at the Hall of Justice beforehand. Judge Pattugalan was taken to the East Avenue Medical Center but was declared dead on arrival.

On 27 October 2005, Judge Pattugalan survived an earlier attempt on his life after several unidentified armed men attacked his personal vehicle in Baggao, Cagayan; he was wounded and his driver was killed during that attack. He then sought a transfer to Quezon City. His relatives claim that he had also been followed by unknown persons after the first attempt on his life. Judge Pattugalan had reportedly issued arrest warrants for several policemen and a local politician in Buguey, Cagayan.

The killing was taken up by the National Bureau of Investigation; however, the two perpetrators were not immediately identified. The victim's family has appealed to the police to provide them with sufficient protection; however, again there was no immediate action from the authorities.

VICTIM: Rodolfo Alvarado
INCIDENT: Killing
ALLEGED PERPETRATORS:
Unidentified gunmen
DATE: 31 December 2006

AHRC UA-004-2007

Rodolfo Alvarado Jr.: Won't be running for parliament

On 31 December 2006 Rodolfo "Pong" Alvarado Jr. was shot dead by unidentified armed men at around 5pm in his house in Barangay San Lorenzo, Ligao City. Alvarado died from eight gunshot wounds to different parts of the body.

At the time of his death, Alvarado was a regional project coordinator for the Bayan Muna party. He was also the sixth nominee and potential candidate to represent the party in the House of Representatives.

VICTIMS:
1. Juan Sanggalang (killed)
2. Roberto Espaldon
(wounded)
INCIDENT: Killing
ALLEGED PERPETRATORS:
Three 59th IB personnel
under "Colonel Felix"
DATE: 24 December 2006

AHRC UA-004-2007

Juan Sanggalang: Killed by his military guests

On 24 December 2006, 59-year-old Juan Sanggalang was shot dead around 4am by three soldiers allegedly attached to the 59th Infantry Battalion, Philippine Army and under command of "Colonel Felix" who had sought accommodation at his house in Sitio Pinag-apugan, San Diego, Lian, Batangas around 8pm the evening before. Sanggalang's companion, Roberto Espaldon (57), suffered gunshot wounds to his leg and stomach.

After the shooting, the victims' family immediately went to the scene to help their relatives. When they arrived, Sanggalang was already dead. Espaldon had managed to escape to nearby coastline. The victim's family saw the soldiers leaving the crime scene.

Later, the village chief, Carlito Caisip, arrived together with policemen from Lian town. A mobile phone reportedly owned by Colonel Felix was recovered by police investigators beside the victim's house. The police likewise recovered several items belonging to the military which had been left in the area. However, some members of the Cafgu militia attached to the same military unit were also with the police and may have attempted to remove important evidence from the crime scene during the search.

After the incident, General Mesa of the 202nd Brigade, Philippine Army quickly declared that the shooting incident was an encounter between New People's Army rebels and government troops. Days later, posters and pamphlets appeared around town containing messages critical of village chief Caisip, the town's vice-mayor, Roberto Cunamay, and others, accusing them of being supporters of the rebel group.

Sanggalang was a member of Habagat (Haligi ng Batangenyong Anak Dagat), a local chapter of Pambansang Lakas ng Kilusang Mamamalakaya ng Pilipinas (Pamalakaya), which is a nationwide federation of fisher-folk organizations.

Fransisco Bantog: Shot dead in tourism office

On 22 December 2006, Francisco Bantog, a municipal coordinator and provincial auditor for the Bayan Muna party in the province of Sorsogon, was shot dead. He was at the Donsol Tourism Office at around 10am when three gunmen on a motorcycle and wearing helmets rode up and shot him about 20 times with .45-calibre pistols. Police have recovered used cartridges from the scene, but it is not known what other action has been taken.

Gil Gojol: Gunned down outside court

On 12 December 2006, at around 9:55am, human rights lawyer Gil Gojol and his driver Danilo France were shot dead by four armed men riding on two motorcycles in Barangay Carriedo, Gubat, Sorsogon. Gojol and France had just left the Municipal Trial Court when they were ambushed in their service vehicle.

According to a witness, the attackers first shot France and the van was stopped. Gojol tried to escape but failed. Both of them died on the spot from multiple gunshot wounds. The incident happened about 200 metres away from a detachment of the 22nd Infantry Battalion, Philippine Army, based in San Ignacio.

Gojol was a former local government official who had served as a provincial board member for the 1st District of Sorsogon. He was also a former president of the Integrated Bar of the Philippines (IBP) in Sorsogon Chapter and a legal counsel for the Association of Democratic Labor Organizations-Kilusang Mayo Uno.

“We in the United States will do everything in our power to bring this outrage to the attention of the US people and people around the world”

—Jeffrey Michael Meyer, USA

6

VICTIM: Francisco Bantog
INCIDENT: Killing
ALLEGED PERPETRATORS: Three unidentified gunmen
DATE: 22 December 2006

AHRC UA-004-2007

7

VICTIMS:
1. Gil Gojol
2. Danilo France
INCIDENT: Killing
ALLEGED PERPETRATORS: Unidentified gunmen
DATE: 12 December 2006

AHRC UA-004-2007

At the time of his death, Gojol was counsel in cases involving defense of the rights of the poor. He was also legal counsel for Sotero Llamas, a consultant of the National Democratic Front, who was killed in May. The presidentially-appointed Melo Commission recorded the following in its January 2007 report concerning that case (pages 43–44):

Sotero Llamas joined the CPP/NPA during the martial law regime of President Marcos; he was forced to go underground because he was an active member of the Kabataang Makabayan. After he was captured in May 1995, he was granted amnesty under the Joint Agreement on Security and Immunity Guarantee. He thereafter served as political consultant for the NDF in the peace negotiations between the NDF and the GRP from 1997 to 2004. He also served as political affairs director of the Party List Bayan Muna. In the 2004 elections, he ran for in Albay but lost.

On May 29, 2006, at about 8:30 a.m., while on board a multi-cab which was maneuvering to make a u-turn, three men on board a motorcycle approached the right side of the multi-cab and at close range fired several shots, hitting Llamas once on the head and thrice on the body while the driver sustained one gunshot wound on the right arm. Llamas was pronounced dead upon arrival in the hospital.

Two alleged eyewitnesses, a male pedicab driver and a 19-year old female student, who were not named in the file, supposedly identified one of the gunmen as Edgardo Sevilla, allegedly a member of the Communist Terrorist group operating in the first and second districts of Albay. The two witnesses were supposedly presented before the Office of the Regional State Prosecutor and they affirmed their statements positively identifying Edgardo Sevilla and one Edgar Calag. According to the police, their intelligence report disclosed that Edgardo Sevilla is currently an NPA commander while Edgardo Calag, a discharged Phil. Army special forces member who went AWOL after killing his detachment commander, is “believed to be an NPA member operating in Albay and Sorsogon.”

8

VICTIM: **Renato Estrella**
INCIDENT: **Killing**
ALLEGED PERPETRATOR:
Unidentified gunman
DATE: **12 December 2006**

AHRC UA-004-2007

Renato Estrella: Killed for opposing the military?

At around 6pm on 12 December 2006 Renato Estrella (58), a barangay (village) chief of Atlag, Malolos City, was shot in the head at close range by a gunman in Sitio Buhangin. Estrella died on the way to the Santos General Hospital in Malolos City.

The police have claimed that Estrella’s death was possibly perpetrated by a rebel hit squad. However, according to the Bagong Alyansang Makabayan (New Patriotic Alliance) in Central Luzon, Estrella had received threats on his life, allegedly from the military. Estrella had opposed the deployment of government troops in his area.

9

VICTIM: **Crisanto Frivaldo**
INCIDENT: **Killing**
ALLEGED PERPETRATORS:
Unidentified gunmen
DATE: **11 December 2006**

AHRC UA-004-2007

Crisanto Frivaldo: Murdered while caring for baby

Crisanto Frivaldo, a student at Aquinas University College of Law, was shot dead by hooded gunmen in his house in San Julian, Irosin, Sorsogon on 11 December 2006, while caring for his two-month-old baby. He died from five gunshot wounds: one to his head and four to his chest.

Frivaldo was the younger brother of former councilor and Bayan Muna party municipal coordinator Maximo Frivaldo, who was himself shot dead on 30 January 2006.

Jesus Servida: Killed for the union

On 11 December 2006, Jesus Buth Servida (32) was shot dead in front of a Japanese-owned factory in Anabu, Imus, Cavite at around 6:15am. Servida and Joel Sale (32), together with two other companions, Michael Omedes and Geminiano Retutar, were sitting in their service vehicle in front of factory gate no. 2, where they had gone to deliver vegetables, when they were attacked. Servida and Sale were sitting on the right side of the vehicle when the gunman approached and shot them.

According to Nora Diloy, secretary for the Samahan ng mga Manggagawa sa EMI union, Servida was shot to his face and mouth. Sale was shot in his face, back, and right side of his body, but survived. Another victim, Kenny Mari Severo (21), a factory worker, was also hit to the left temple of his head by a stray bullet. Sale and Severo were immediately taken to the University Medical Center (UMC) in Dasmariñas, Cavite.

Servida and Sale were members of the Solidarity of Cavite Workers, an alliance of labour groups and unions in Cavite. Servida and his colleagues, Sale, Omedes and Retutar, were former employees and officers of the Kristong Manggagawa sa Yazaki-EMI union who had been sacked on 20 December 2005 after union disputes. They had helped form a new union and challenged the old union over rights to represent the factory's 4000 workers as a "sole and exclusive bargaining agent". The new union won in the election.

While the Imus police claimed to have completed their investigation and produced a sketch of the alleged gunman, Servida's wife Maricel is not aware of the outcome of the investigation, if any.

Bong Gonzal: Shot outside office

On 8 December 2006 Bong Gonzal survived in an attack by two armed men in Estancia, Iloilo at around 10am. Gonzal was on his way to the office of Progreso (Panay Rural Organising for Reform and Social Order)—just 300 metres away from the Estancia Municipal Hall—when he was hit in his arm and legs by bullets fired by two unidentified gunmen. Gonzal was taken to a nearby hospital for treatment.

According to his fellow workers, Gonzal and all the Progreso staff had been receiving death threats. Progreso is a local group under a national non-government organisation working on agrarian reform, rural democratization and development. Gonzal is regional director.

Alberto Yadan: "You'll die when we cross paths"

At around 7:30pm on 6 December 2006, Alberto Yadan was in his house in Barangay Tipas, San Juan, Batangas. According to a witness, he was sitting near the kitchen and having coffee after dinner when he was shot by a gunman in a cap who covered his face with a towel. The gunman, armed with a .45-calibre pistol, entered the house and shot at Yadan four times. Yadan ran about five metres before falling on the ground. He died from

10

VICTIMS:

- 1. Jesus Buth Servida (killed)**
- 2. Joel Sale (wounded)**
- 3. Kenny Mari Severo (wounded)**

INCIDENT: Killing

ALLEGED PERPETRATOR:

Unidentified gunman

DATE: 11 December 2006

AHRC UA-399-2006

11

VICTIM: Bong Gonzal

INCIDENT: Attempted Killing

ALLEGED PERPETRATORS:

Two unidentified gunmen

DATE: 8 December 2006

AHRC UA-399-2006

12

VICTIM: Alberto Yadan

INCIDENT: Killing

ALLEGED PERPETRATORS:

Two unidentified gunmen

DATE: 6 December 2006

AHRC UA-399-2006

a single bullet that pierced his back and exited through his chest. After the shooting, the gunman calmly left and met a companion who had served as a lookout outside.

No proper investigation and handling of evidence was conducted by elements of the San Juan Municipal Police Station. When they arrived at the crime scene, they only gathered empty shells and hauled the victim's dead body into their vehicle.

Prior to the incident, Yadan had been receiving threats on his life. He had assisted his cousin Lorenza Marcos to claim ownership of land in Pagbilao, Quezon under the Comprehensive Agrarian Reform Program. He had just returned from a court hearing over the case involving a land dispute when he was killed.

On December 5, the day before Yadan's murder, PO 2 Melanio Gazzingan allegedly made threatening remarks to Yadan and his relatives after they attended an administrative complaint hearing against him. Gazzingan is the son-in-law of Norma de Leon, the original owner of the land that Marcos has claimed. He allegedly warned Yadan that, "You'll be put somewhere else if you don't stop."

Several days earlier, Barangay police officer Melchor Bataller also allegedly made threatening remarks to Yadan and his relatives. Bataller reportedly said that the police would kill the family members "when we cross paths". Yadan and his relatives reported the threat to the municipal police.

After the shooting, the San Juan Municipal Police Station arrested Bataller. He was later taken to the provincial office of the National Bureau of Investigation. Whether or not Bataller had direct involvement in the murder of Yadan is yet to be thoroughly investigated.

Yadan was a leader of the Ugnayan ng mga Nagsasariling Lokal na Organisasyon sa Kanayunan who had also led a campaign to place a 23-hectare landholding owned by another influential landowner Lidrada Tolosa, under the land reform scheme.

13

VICTIMS:

1. **Andrew Iñoza (killed)**
2. **Ramon Laude (wounded)**

INCIDENT: **Killing**

ALLEGED PERPETRATORS:

Four unidentified gunmen

DATE: **21 November 2006**

AHRC UA-380-2006

Andrew Iñoza: Labour union leader murdered in street

Andrew Iñoza (48) was shot dead by four gunmen at around 7:30am on 21 November 2006, while riding his motorcycle along Cataquiz 2 Subdivision, Barangay Poblacion, San Pedro in Laguna. The gunmen fired at him after they blocked his path. He died on the spot. Tricycle driver Ramon Laude was also wounded during the shooting. The attackers took Iñoza's mobile phone, wallet and other personal belongings before fleeing on foot. Five spent .45-calibre pistol shells and five 9mm pistol shells were recovered by police investigators from the crime scene.

Iñoza had been the president of the Alaska Milk Workers Union at a local factory for about ten years. He was also the provincial chair of Bukluran ng Manggagawang Pilipino-Partido ng Manggagawa. His colleagues believe that he could have been killed because of his work as a labour leader.

Roderick Aspili: Shot dead watching TV with family

At around 6:45pm on 20 November 2006, Roderick Aspili (24) was shot dead by four armed men in balaclavas inside his house at Km. 11, Barangay Trinidad, Surigao City. He was watching television with his family when he was attacked. Aspili's wife and 8-month-old daughter were not harmed. The attackers fled in a van after the shooting.

Aspili suffered .45-calibre pistol gunshot wounds to the back of his head and the right side of his neck and body.

Aspili was an organizer for United Workers of Surigao del Norte. He was also an active member of the Student Christian Movement of the Philippines in Butuan City and formerly its secretary-general, from 1998 to 2003. Aspili's colleagues believe that his work could be the motive for his murder.

Francilita Saquital & others: Dangerous sugarcane

Four farmers were wounded after they were reportedly ambushed by armed security guards of an influential landowner in Himamaylan City, Negros Occidental at 5:30pm on 17 November 2006. The victims, Francilita Saquital (42), Maria Luz Inlao (53), Thomas Cordova (38) and Basilia Cordova (41), had just finished loading their sugarcane harvest together with other farmers into their cargo truck and were on their way out of the farm when the perpetrators, who had hidden in field no. 30, opened fire at the truck with 12-gauge shotguns. Five empty shotgun shells were later recovered at the scene.

Thomas Cordova was hit in his arm, Francilita Saquital was hit in her left arm and left side of her abdomen, Maria Luz Inlao was hit in her right thigh and Basilia Cordova was hit and seriously injured in her upper left breast. Cordova was carrying her three-year-old daughter when the ambush took place.

The four injured men are members of the Hacienda Naval Workers' Association and beneficiaries of the Comprehensive Agrarian Reform Program at Hacienda Naval. They were harvesting the sugarcane they planted at field 11 of the hacienda after the Department of Agrarian Reform awarded the land, which was formerly owned by Jomarie Javellana, to them.

The farmers had already requested assistance and protection from the Himamaylan City Police Office and the Municipal Agrarian Reform Officer several times; however, the requests were reportedly ignored. The farmers made the decision to harvest without protection from the landowner's men. On their way to the plantation there had already been an altercation between the farmers and security men.

“WE ARE ENRAGED at the unabated extra judicial killings... we call for: a stop to these killings, punishment of the perpetrators, and compensation for the victims' families ” —*Sr. Estrella Castalone, FMA Ass. of Major Religious Superiors in the Philippines*

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VICTIM: Roderick Aspili
INCIDENT: Killing
ALLEGED PERPETRATORS:
Four unidentified gunmen
DATE: 20 November 2006

AHRC UA-380-2006

15

VICTIMS:
1. Francilita Saquital
2. Maria Luz Inlao
3. Thomas Cordova
4. Basilia Cordova
INCIDENT: Attempted killing
ALLEGED PERPETRATORS:
Four Tuguis Security Agency
personnel, including Antonio
Garcia, “Cañon” and “Boyel”
DATE: 17 November 2006

AHRC UA-387-2006

Some of the farmers identified the perpetrators as Antonio Garcia, and two others nicknamed “Boyet” and “Cañon”, along with a fourth man who was not identified. They said that the perpetrators emerged from the sugarcane field after ambushing the cargo truck and tried to chase other farmers who had been on foot, checking the road for spikes or other means to sabotage their exit.

Domingo Marbella: Taken away and killed

Domingo Marbella and another farmer were abducted by armed men in Barangay Lungib, Pilar, Sorsogon, on 13 November 2006. His body was found on November 21, with gunshot wounds and indications that he had been tortured before he was killed.

Marbella was the relative of an official of the Kilusang Magbubukid ng Pilipinas (Peasants Movement in the Philippines).

Rev. Billy Austin: Shot on street

On 9 November 2006, Rev. Billy Austin was attending a human rights programme in Vigan City, Ilocos Sur, at the United Methodist Church, of which he is a minister. He left there with some others around 9pm and walked to the nearby office of Bayan—an umbrella organisation of which he is the Ilocos Sur head—and at that time noticed that a motorcycle and a van were tailing them.

As Rev. Austin and the others walked along Del Pilar Street, a blue motorcycle came in their direction. A man riding pillion raised a gun and started shooting at them. Rev. Austin suffered two gunshots, one in each leg. He was sent to a nearby hospital and reported the attack to the local police.

Two unknown men went to the hospital on separate occasions to look for Rev. Austin. They refused to identify themselves to the nurses. Rev. Austin’s visitors were also followed by unknown men riding on motorcycles.

Dr. Rodrigo Catayong: Victim of “liquidation list”

On 5 November 2006, Dr. Rodrigo Catayong and his wife Marcela were attacked outside church in MacArthur, Eastern Samar, by five armed men riding on motorcycles who shot Dr. Catayong at close range, hitting him eight times in his face, chest, neck and back. He died on the spot.

Two months prior to the killing, a “liquidation list” signed by “Ka Hector” of the Samar-Leyte Anti-Communist Movement with the names of 31 persons, including his, was reportedly circulated all over the province. Those on the list were identified as members or sympathizers of the New People’s Army rebel group, and were accused of having “committed sins against the people”. The order for liquidation, it claimed, was approved by the Committee Central ng Pilipinas Hukbong Tagahatol ng Bayan, Leysam Anti-Communist Movement. Others on the list were a mayor in Borongan, Samar; a public grade school teacher; three

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VICTIMS:

1. Domingo Marbella
2. Unnamed second victim
INCIDENT: Killing
ALLEGED PERPETRATORS:
Unidentified gunmen
DATE: 13 November 2006

AHRC UA-380-2006

17

VICTIM: Billy Austin
INCIDENT: Attempted Killing
ALLEGED PERPETRATORS:
Unidentified gunmen
DATE: 9 November 2006

AHRC UA-369-2006
UP-214-2006

18

VICTIM: Rodrigo Catayong
INCIDENT: Killing
ALLEGED PERPETRATORS:
Five armed members of
Samar-Leyte Anti-Communist
Movement
DATE: 5 November 2006

AHRC UA-369-2006

professors at the Eastern Samar State University—including Catayong—leaders of progressive political parties, a policeman and a local media man.

The Samar-Leyte Anti-Communist Movement is alleged to be a front of the Civil Relations Service of the armed forces in the area. Its members had reportedly previously conducted joint anti-communists rallies and other activities there.

Dr. Catayong chaired the Eastern Samar branch of human rights group Karapatan since 2001.

Ronald Ocson & others:

Reign of terror by local landlord and police

On 30 October 2006, Ronald Ocson (41), president of the Asao Farmers and Residents Association (Afra), was sitting at the entrance of his father's house around 6pm with his 14-year-old daughter Rowena Joy, who was inside, when a gunman, later identified as Roberto "Kasey" Jordan allegedly approached and shouted, "Why? Is this your land?" After that he shot Ocson, hitting him in his leg. He was taken to the Jesus Colmenares Hospital in Malbog, Balasan for treatment.

The Balasan police investigation concluded that Jordan was drunk when he shot Ocson using a .357-calibre handgun, having spent the day drinking with a person named "Kano" and Andres Bedro at his rice fields. The Bedros are influential landlords with whom the victim and his organisation had a conflict over land. Andres and his wife Susan Bedro, former vice-mayor of Balasan, had filed a civil case to restrain 21 Afra members from claiming land that they had been awarded under the Comprehensive Agrarian Reform Program. Portions of Lot C, Psd-74005 were redistributed to members of Afra, most of them tenants of the Bedros, on 23 June 2003 by the Department of Agrarian Reform Regional Director Alexis Arsenal.

The local court ruled in favor of the Bedro's petition for land ownership. But under the law, any land reform dispute should be tried before a special agrarian court, so the jurisdiction of the court and its verdict was brought into question and the agrarian reform beneficiaries appealed their case.

The Bedros had then allegedly resorted to violence to get the court order enforced, although it was not final and executable. The villagers have all since then experienced harassment and threats to their lives. Most recently, around 5:30am on October 11 Andres Bedro and his armed men on a cargo truck, a pickup and a motorcycle raided the Afra members' village in Sitio Asao, Barangay Lawis, Balasan, destroying crops and property. Even coconut palms were cut down. They likewise harassed and threatened the villagers who were present. One of them, Jovita Baria, was gathering dried coconut leaves when they came. She was beaten by one of the men when she tried to block them, and Bedro allegedly aimed his .45-calibre pistol at her and the other

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VICTIMS:

- 1. Ronald Ocson (attempted killing)**
- 2. Hernan Baria (killed)**
- 3. Romeo Catalan (wounded)**
- 4. Jovita Baria (threatened)**
- 5. Johnny Catalan (threatened)**

INCIDENT: Killing; attempted killing; intimidation

ALLEGED PERPETRATORS:

Roberto "Kasey" Jordan, landlord Andres Bedro and hired gunmen

DATE: 30 October 2006 and prior dates

AHRC UA-350-2006
UP-213-2006

farmers and threatened them to leave the area immediately. Jovita's husband, Hernan Baria, had already been killed, apparently due to the farmers' struggle for the land.

Three days later, on October 14 at 11pm, the house of Johnny Catalan (28) was also fired upon by unidentified men. No one was hurt. Villagers immediately contacted the local police station for assistance; however, nobody answered the phone for about an hour and the police only conducted their investigation into the shooting the following morning, when they found four .45-calibre empty shells and holes in the walls of the house. The 21 affected Afra farmer beneficiaries and their families then sought refuge at the municipal gymnasium for fear of their lives.

Johnny Catalan is also a witness to the killing of Hernan (Hernando) Baria on 23 July 2005, when at least 20 armed men—later found to have been police—opened fire at his house on the pretext of shooting at a rebel camp. Baria died on his way to the hospital due to loss of blood. Johnny's father, Romeo, was wounded in the same attack. On 16 January 2007 the AHRC released a statement in response to a claim by the police that the two were targets of "legitimate police operations" (see also open letters in Appendix III):

A press release issued by the Philippine Information Agency (PIA) on January 12 quoted Chief Superintendent Geary Barias, director of the Police Regional Office 6 as justifying the death of Hernan Baria and wounding of his companion, Romeo Catalan, on 23 July 2005 in Balasan, Iloilo on the ground of "legitimate police operations". Barias also denied that his personnel committed human rights violations, in response to an appeal issued by the Asian Human Rights Commission (AHRC) in October 2006 requesting a fresh investigation of the case.

The AHRC categorically rejects the police version of events in the PIA press release. The PIA, the official government newsagency of the Philippines which has as its mission to provide for the "free flow of accurate, timely and relevant information" published only the police version of the event, in which the officer concerned claimed that the AHRC had made "false allegations" and had misrepresented information. It is astounded and outraged that the PIA would disseminate such unsubstantiated claims that the documentation of the alleged incident was false. In fact, it is the contents of this press release that consist of misrepresented information, as follows.

First, the police claim that Baria and Catalan were killed and wounded respectively in a "legitimate" police operation; however, to the knowledge of the AHRC there has at no time been any independent investigation of the police version of events by an authorised and impartial body. The denial of wrongdoing by the commander of the accused officers should not have been published by the official mouthpiece of the government under any circumstances. In so doing it has made itself complicit with alleged extrajudicial killers.

Who decides what is legitimate or not when someone is killed in police fire? Can the police themselves decide? Is the information officer who received the story in a position to know? No: this is a matter for the courts and outside investigators. The contents of the appeal on this case by the AHRC, which it stated were alleged and clearly cited the source of the allegations and details as given, were all directed towards obtaining

a fresh investigation for this purpose. No such investigation has been conducted. Thus, the allegations stand until such a time as is otherwise. That the police claim that the allegations are unjustified is unsurprising and irrelevant for the purposes of obtaining a credible picture of what happened to the two men; however, the PIA should not in any case have distributed their story.

Secondly, the AHRC did not at any point allege that the police had engaged in “indiscriminate firing” as claimed in the PIA press release. Not only was no such “false allegation” never made in the appeal, but the agency has itself made a false allegation, thereby confusing its stated role as provider of accurate information with that of a police mouthpiece. Again, the PIA has no capacity to weigh evidence or information and to decide which of the allegations contained in the appeal were true or false: this remains a matter for a judicial authority to decide.

Thirdly, the PIA charter, stipulated under Executive Order 576 signed by President Gloria Macapagal-Arroyo on 7 November 2006 enables it “access to government media agencies for the purpose of disseminating development-oriented information”. Nowhere in this is the authority to issue one-sided press releases with the express purpose of exonerating state officers from legitimate allegations of human rights abuse. The PIA is not a public relations unit for the police. In as much as its purpose is ostensibly to provide truthful and impartial information that is beneficial for the community, it has in making this press statement completely violated its mandate and undermined its professional integrity.

That the Philippine government’s information agency is now being used to counter allegations of extrajudicial killings and other gross rights abuses by police, when seen together with the persistent official tolerance of the concerted and unabated killings in that country, sends a strong message that the administration is interested in protecting the perpetrators, not the victims, of such incidents. This is a message directed not only to the AHRC but to all human rights groups and rights defenders locally and internationally, and above all, to the victims and their families.

The Asian Human Rights Commission is today sending an early warning to the human rights community that the Philippine Information Agency may become a de facto propaganda agency for agencies that should be responsible for addressing the killings to instead defer and deny responsibility, attack critics, discredit legitimate information and downplay serious and genuine grievances. This warning stems not only from the January 12 press release but also from President Arroyo’s signing of Administrative Order 163 on January 3, which instructed the Presidential Human Rights Committee and its members, including the Office of the Press Secretary, to formulate a media program that will “portray an accurate assessment of the human rights in the country”. The PIA is attached to the office, which is also under the Office of the President.

The government of the Philippines is today playing an increasingly dangerous game, on the one hand attempting to create the impression of a commitment to human rights and the manifest need to address the gross abuses occurring in the country, while on the other doing all it can to reject accusations without the conducting of impartial investigations and other essential actions. The killings continue and the killers remain at large; the credibility of the administration continues to slide. Order 163 in itself gives the signal that the government is more concerned to spend time and money on polishing its image than it is on actually putting a stop to the killings.

“ as a Norwegian citizen with an adopted daughter from the Philippines, I am shocked and concerned about the lawlessness in the Philippines—I sincerely urge you to take human rights seriously ”

**—Cecilie Nustad,
Norway**

The Asian Human Rights Commission stands by the contents of its urgent appeal and reiterates its demands for independent inquiries, not police whitewashing, of the death of Hernan Baria and wounding of Romeo Catalan. It calls for the human rights community to oppose strongly all such attempts at intimidation and disinformation through government agencies. And it calls upon the Philippine Information Agency to retract its January 12 press release and issue a public apology for the publishing of the biased and insensitive contents.

Finally, the AHRC calls upon all concerned persons in the Philippines not to tolerate misuse of the PIA as an agency for the distribution of police or military propaganda. Such misuse will only justifiably increase the already serious doubts that the public has about the government's will to protect its citizens and punish the perpetrators of extrajudicial killings, and will do nothing for the credibility of either the PIA or the government as a whole.

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VICTIMS:

1. **Eduardo Millares (killed)**

2. **Victoriano Cariño (wounded)**

INCIDENT: **Killing**

ALLEGED PERPETRATORS:

Unidentified gunmen

DATE: **18 October 2006**

AHRC UA-347-2006

Eduardo Millares: Gang attack or something more?

At 7am on 18 October 2006, Eduardo Millares (50) and Victoriano Cariño (42) were on their way to work at a coconut plantation near their homes in Barangay Soledad, San Pablo City, Laguna when an unidentified gunman attacked them near the barangay hall. Millares died instantly from four gunshots to his body and head. Cariño suffered a gunshot to his right leg. Witnesses said the attacker escaped by a motorcycle with two other men.

Police investigators in San Pablo City Police Office rejected the possibility that the killing of Millares could be motivated by his activities for the urban poor. The police insisted that gang members might have killed Millares and alleged that he was the member of a robbery syndicate, claiming that he has a criminal record at the city's police station.

Millares was an active member of an urban poor group named Samahan ng Magkakapitbahay sa Tabing-Riles (Association of Neighbours along the Railroad), a local chapter of a national group, Kalipunan ng Damayang Mahihirap (Kadamay-Timog Katagalugan).

Millares' colleagues believe that the attack could be related to their opposition to a railway modernisation plan that threatens to demolish local houses and displace residents.

Two months prior to the killing, elements of the 202nd Infantry Battalion of the Philippine Army, led by Sergeant Victor Reyes, set up detachments in communities along the railways in San Antonio, Santa Ana, San Gregorio, San Joaquin, Soledad, Calehan and Wawa, which are all in San Pablo City. They conducted operations and implemented a curfew.

On October 17, the day before Millares was killed, his group held a dialogue with the city government and representatives of the 202nd IB. They complained about continuous military surveillance, intimidation and harassment of residents in the area. At that time they found out that the local government had not been informed of the presence of the military in their

jurisdiction, but at least two officials, Vice-Mayor Larry Vidal and Councillor Martin Ilagan, expressed their support for its operations.

Fr. Dionisio Ging-ging: Another priest stabbed to death

On 8 October 2006, a few days after the slaying of Bishop Ramento (following story), Fr. Dionisio Ging-ging, also a priest of the Iglesia Filipina Independiente, was murdered in a similar manner in Barangay Bajao, Tago, Surigao del Sur.

At around 5am, Fr. Ging-ging was on his way to Sunday mass when three hooded men stopped him outside his house and stabbed and hacked him to death.

As in the case of Bishop Ramento (see below), the investigating police quickly attributed the killing, this time to the settling of a personal score.

Bishop Alberto Ramento:

“I know they are going to kill me next”

Bishop Alberto Ramento (69) of the Iglesia Filipina Independiente (IFI) was found dead in his room on the 2nd floor of his parish in San Sebastian, Espinoza Street, Tarlac City at around 4am on 3 October 2006. He had been fatally stabbed seven times.

On the day of the incident itself the police announced that Bishop Ramento was a victim of robbery with homicide, immediately dismissing a possible alternative motive. They based their conclusion on earlier reports of break-ins at the San Sebastian Church and also because the bishop's cellular phone and ring were missing. Two days after, they pronounced the case “solved”, following the arrest of four alleged suspects in Tarlac City, all of whom had criminal records.

However, Bishop Ramento's family and fellow clergy believe that his murder was methodically planned and motivated in revenge for his work for the poor. They were dissatisfied with the police investigation. They maintain that the bishop had received several death threats before his killing and had told his family, “I know they are going to kill me next. But never will I abandon my duty to God and my ministry to the people.” However, the police have resorted to labelling accusations that his death was politically motivated as being “propaganda”.

Bishop Ramento had publicly criticised the administration for its failure to stop the constant extrajudicial killings in the Philippines or launch independent investigations into them. In an open letter to President Arroyo on 7 September 2006, the IFI Executive Commission, of which Bishop Ramento was a member, called on the president to step down because of the failure of her government to stop the killings.

21

VICTIM: Dionisio Ging-ging
INCIDENT: Killing
ALLEGED PERPETRATORS:
Three unidentified men
DATE: 8 October 2006

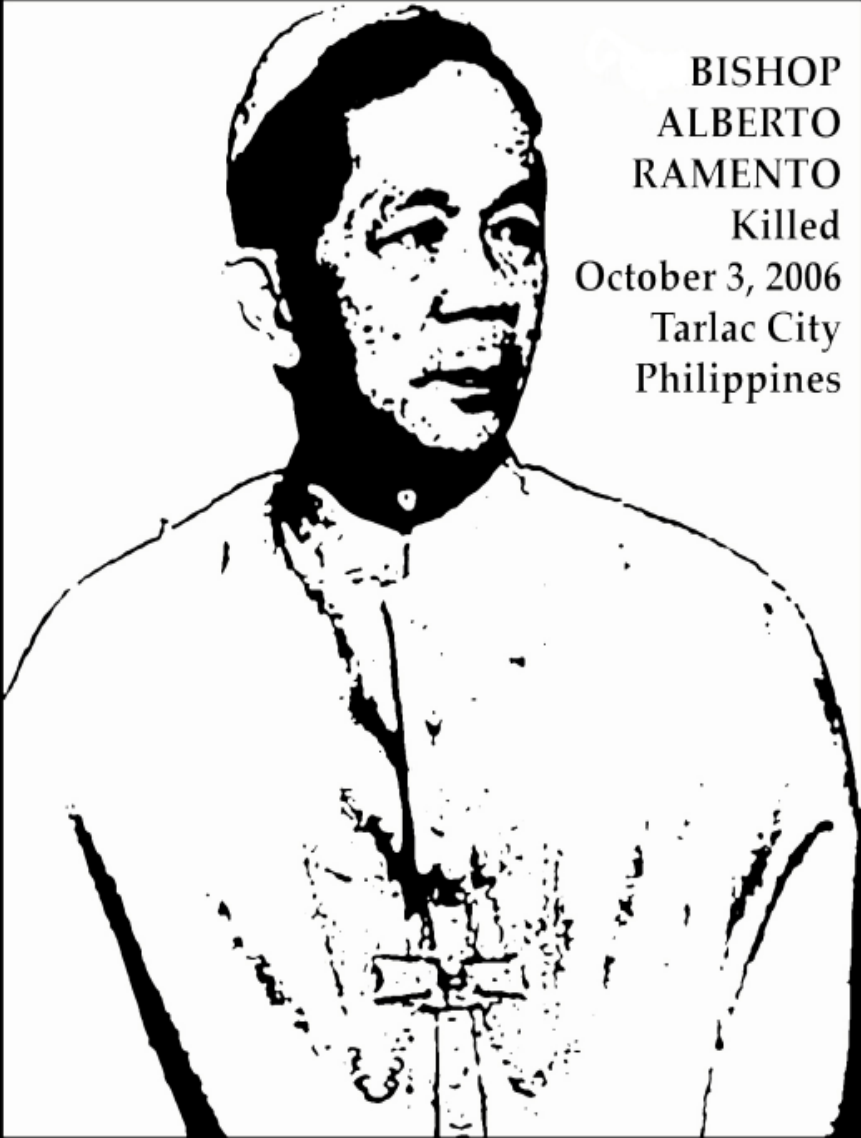
AHRC UA-337-2006

22

VICTIM: Alberto Ramento
INCIDENT: Killing
ALLEGED PERPETRATOR:
Unknown
DATE: 3 October 2006

AHRC UA-331-2006

HOW MANY MORE?



BISHOP
ALBERTO
RAMENTO
Killed
October 3, 2006
Tarlac City
Philippines

STOP THE KILLINGS in the Philippines!

Hong Kong Campaign for the Advancement of Human Rights and Peace in the Philippines
Asian Human Rights Commission / KARAPATAN-Stop the Killings in the Philippines Campaign

Bishop Ramento also openly opposed Arroyo's attempts to amend the country's constitution and change its political structure from a presidential to a parliamentary model of government.

In addition to being the bishop of Tarlac Diocese, Bishop Ramento was the chairman of the IFI's Supreme Council of Bishops and a co-chairperson of the Ecumenical Bishops' Forum, a fellowship of bishops of the Roman Catholic Church. He also was the chairman of the National Council of Churches of the Philippines (NCCP), and from 1993 to 1999 he served as the Obsipo Maximo IX, the IFI's spiritual head, chief pastor and chief executive officer.

Outside of his formal church work, Bishop Ramento served as a convener of Pilgrims for Peace and was also a provincial leader of the human rights group Karapatan. He was the chairperson of the board of the Workers' Assistance Centre, a labour group in Rosario, Cavite Province and he had strongly supported the farm workers of Hacienda Luisita who staged a strike that was violently suppressed by the police and military in November 2004, resulting in the deaths of seven.

The AHRC released a statement on the occasion of the bishop's killing, which read in part:

The violent silencing of this moral voice in the Philippines indicates that either the perpetrators have no fear of being apprehended by the police or that agents of the state are, indeed, the perpetrators. The unwillingness or inability of the Philippine government to seriously respond to the hundreds of killings that have occurred in the Philippines since Arroyo came to power in 2001 has spawned a climate of impunity in the country. The people now live in fear, not the perpetrators of these violent acts.

Moreover, the failure of the Arroyo government to take adequate steps to eradicate the country's extrajudicial killings, which Karapatan states is at least 763 deaths since 2001, is a repudiation of the Philippine government's international obligation to protect the lives of its citizens.

Lastly, the killing of Bishop Ramento, a public critic of the government as previously noted, illustrates the lack of criticism permissible by the government. This abhorrence of criticism indicates the unhealthy state of democracy in the Philippines. Democracy is a political system based on respect for human rights and the protection of everyone's right to voice their views. A government that does not defend its people's rights, that, indeed, does not defend the people's most fundamental right of all—its right to life—is a government that cannot maintain the trust of its people and can no longer claim that it represents its people. In short, it can no longer claim that it is a democratic government.

If the Arroyo government wishes to reclaim any pretence of legitimacy, it must take immediate action to bring to justice those who have violently taken the life of Bishop Alberto Ramento as well as hundreds of other unresolved extrajudicial killings in the country. If alive, Bishop Ramento would have uttered the same statement.

VICTIM: Victor Olayvar
INCIDENT: Killing
ALLEGED PERPETRATORS:
Two unidentified gunmen
DATE: 7 September 2006

AHRC UA-300-2006



PHOTO: KARAPATAN

Victor Olayvar: Victim of army hit list?

Victor Olayvar was shot dead at around 7:25am on 7 September 2006 by gunmen riding on a motorcycle at Bridge Caban, Barangay Cantubod, Danao. He was on a passenger motorcycle heading to Tagbilaran City when another motorcycle with two people on board blocked the route. One of them shot him at close range. The driver of the passenger motorcycle immediately reported the attack to a police office, at 7:30am.

Prior to the shooting Olayvar and other members of his organisation, Bagong Alyansang Makabayan (Bayan), and their allies felt that their lives were threatened. They had obtained information that the military was holding a hit list which included the names of four Bayan leaders, Olayvar's among them, and those of two other unknown persons. Meanwhile, they and members of a farmers' group, Hugpong sa mga Mag-uumang Bolanon (Bohol Peasant Organization), had heard of hooded strangers riding on unregistered motorcycles and in vans asking for their whereabouts.

On September 2, the Bishop of Bohol, Bishop Leopoldo Tumalak, organised a dialogue between Olayvar's group and representatives from the 302nd Brigade, Philippine Army based in Bohol. They discussed the death threats, surveillance of leaders and propaganda against their group. It was only five days later that Olayvar was killed.

VICTIM: Ranbert Placencia
INCIDENT: Killing
ALLEGED PERPETRATORS:
Seven unidentified gunmen
DATE: 4 September 2006

AHRC UA-300-2006

Ranbert Placencia:

"You were the one who prevented the mining!"

On 4 September 2006, Ranbert Placencia was on his way to work on his motorcycle when seven unidentified armed men wearing military-style clothing blocked his way along Purok 8, Sta. Monica, Nuevo Iloco, in the Mawab municipality of the Compostela Valley. The gunmen pointed their firearms at him and questioned his identity. One of them, in a balaclava, was armed with an Uzi machine gun and a .45-calibre pistol. He searched for Ranbert's mobile phone and seized his bag.

A witness heard an argument between Placencia and the armed men prior to the shooting. One of the armed men said, "You were the one who prevented the mining activity in San Isidro!" Placencia responded, "It's the people's will!"

Soon after, several gunshots were heard. Witnesses saw the gunmen shooting at Placencia with the Uzi, a .45-calibre pistol, an M-14 Armalite, a garand rifle and an M-203. The gunmen then immediately fled on motorcycles towards Nuevo Iloco. Placencia suffered nine gunshot wounds to his chest and head.

Placencia was the chairman of the community in Purok 9A San Isidro, Nuevo Iloco, municipal coordinator of the Anak Pawis Party, a member of the Nuevo Iloco Farmers Association, and chairman and a council member of Nagkahiusang Mag-uuma sa Mawab. He was also employed by the National Irrigation Administration.

Napoleon Bautista: Abducted, tortured and killed

Napoleon Bautista (48) and his wife Ofelia were abducted on 30 August 2006 in Barangay San Roque, Hagonoy, Bulacan. They were allegedly tortured during the abduction, and questioned about alleged involvement in the New People's Army.

Ofelia was released a day later and taken to the local Hagonoy District Hospital for treatment; however, no protection was offered to her.

Napoleon's body was found on September 7, in Barangay Pungo, Calumpit, Bulacan. His hands were tied with wire, and there were torture marks on his feet. He had suffered two gunshot wounds, one to his head and one to his back.

The Bautistas were members of Samahang Bantay Palaisdaan, a fisherfolk's group that is a local chapter of a national organisation, Pambansang Lakas ng Kilusang Mamamalakaya ng Pilipinas (Pamalakaya).

Napoleon Bautista was among those who survived the 1987 "Mendiola massacre", when government forces fired at a crowd of peasants and others demanding for genuine land reform, killing several.

Ali Barabato & friends:

Last seen in white van with tinted windows

Ali Barabato, Ismael Sarip and Datu Abubakar were allegedly members of the insurgent Moro Islamic Liberation Front, which is active in the southern Philippines.

On 28 August 2006 around 10am, the three victims arrived at a used clothing stall in Lizada, Boulevard, Davao City by passenger vehicle. Ali greeted a local. Shortly thereafter a man wearing a white t-shirt and jeans called out to Ali and his two companions. The three were last seen inside a white L-300 van with tinted windows, together with the man who called them over.

On August 31, three days after they went missing, the body of Ali Barabato was found on the shoreline in Barangay Aumbay, Island Garden City, Samal, Davao del Norte. Ali's family heard about the discovery from a news report and rushed to the funeral parlour where his body was kept.

According to Alma, her husband's body bore traces of brutal torture. His hands were tied behind his back with wire. His body and his legs were also wrapped in wire. He had a gunshot wound on his upper forehead and three gunshot wounds to his neck.

Cesar Quimco: Deadly disco

Cesar Quimco was with his nephews at a crowded mobile disco located in Sitio Malubog, Barangay Ipil around 1am on 24 August 2006 when suddenly a gunman in a black balaclava emerged from the crowd and yelled, "Put out the lights!" The lights were shut, and eleven shots rang out. All eleven shots hit 62-year-old Quimco, killing him.

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VICTIMS:

1. Napoleon Bautista (killed)

2. Ofelia Bautista (tortured)

INCIDENTS: Killing; torture

ALLEGED PERPETRATORS:

Unknown

DATE: 30 August 2006

AHRC UA-300-2006

26

VICTIM:

1. Ali Barabato y Rasuman (killed)

2. Ismael Sarip (disappeared)

3. Datu Abubakar (disappeared)

INCIDENTS: Killing; disappearance

ALLEGED PERPETRATORS:

Unknown

DATE: 28 August 2006

AHRC UA-363-2006

27

VICTIM: Cesar Quimco

INCIDENT: Killing

ALLEGED PERPETRATORS:

78th IB personnel

DATE: 24 August 2006

AHRC UA-284-2006

Quimco had allegedly been the subject of constant threats from personnel of the 78th Infantry Battalion, Philippine Army. He had been charged with frustrated murder after Corporal Richard C. Semillano and Private First Class Leo Catamin Atriz (both of Alpha Company) filed complaints against him in 2004. Quimco had reportedly tried to restrain the two soldiers from beating up his nephew. Quimco's house had reportedly often been raided since, and he had received death threats.

28

VICTIM: Hermelino Marqueza
INCIDENT: Killing
ALLEGED PERPETRATORS:
Unidentified gunmen
DATE: 20 August 2006

AHRC UA-284-2006

Hermelino Marqueza: Killed in house

On 20 August 2006, unidentified gunmen armed with M-14 rifles shot Hermelino Marqueza dead inside his house in Barangay Maitum, Tandag, Surigao del Sur at around 11pm.

Marqueza was an active leader of a peasant group Kapunungan sa Mag-uuma sa Surigao. He was also the provincial chapter leader of the Peasant Movement of the Philippines (Kilusang Magbubukid ng Pilipinas-KMP).

29

VICTIM: Ambrosio Paler
INCIDENT: Killing
ALLEGED PERPETRATORS:
Unidentified gunmen
DATE: 17 August 2006

AHRC UA-284-2006

Ambrosio Paler: Public transport dispute ends in death

Ambrosio Paler (47) was killed in an ambush by unidentified gunmen along Libertad Street in Pasay City, Metro Manila on 17 August 2006. He was declared dead on arrival at the Sanitarium Hospital due to multiple gunshot wounds.

Paler was a transport leader who had campaigned against illegal public transport operations in areas of Cavite, Laguna and Batangas City. Five days before his killing Paler had successfully obtained a prohibition on non-franchised vehicles working in these areas.

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VICTIM: Orlando Rivera
INCIDENT: Killing
ALLEGED PERPETRATORS:
Four unidentified gunmen
DATE: 16 August 2006

AHRC UA-271-2006

Orlando Rivera: Shot dead at front door

At 1am on 16 August 2006, Orlando Rivera (40) was with his wife inside their house in Obando, Bulacan when somebody knocked at their door. Rivera answered the door, and he was shot several times. He died from three gunshot wounds from a .45-calibre pistol. His wife saw four armed men leaving.

Rivera was formerly a member of the Pambansang Lakas ng Kilusang Mamamalakaya ng Pilipinas (Pamalakaya), a fisherfolk's group active in the area.

Pastor Isaias Sta. Rosa: Two dead bodies and an army mission order

On 3 August 2006 at around 8:30pm, around ten armed men entered the house of the brothers of Pastor Isaias Sta. Rosa, Rey and Jonathan in Barangay Malobago, Daraga, Albay, as they were preparing for dinner. They then went to Pastor Isaias' house, taking his brothers with them. His wife Sonia opened the door, and three armed and hooded men barged inside. They ordered all the people to drop to the floor. They then grabbed Pastor Isaias and threw him against a bamboo bench. He was pushed inside his daughter's room while his wife and children were taken to the master bedroom.

The perpetrators questioned Pastor Isaias and assaulted him, telling him to admit that he was a person named “Elmer”, for whom they were looking. Pastor Isaias denied this and told them to check his identification card.

One of Pastor Isaias’s daughters saw that he was tied up and taken outside, while his family remained indoors. When his family was certain that the armed men had left, Sonia rushed to the neighbours for help. It was then they heard nine gunshots.

Sonia, her children and their neighbors searched the area and found Pastor Isaias lying dead in a creek some 40-50 metres away from their residence. He had suffered six gunshot wounds, three to his chest, two to his thigh and another one to his foot.

Lying beside him was another dead body: that of Corporal Lordger Pastrana of the Philippine Army. Pastrana had a bullet in the right side of his body. A .45-calibre pistol with a silencer was found nearby. Pastor Isaias’s wristwatch, his daughter’s mobile phone and a Mission Order for Pastor Isaias dated 22 July 2006 and signed by Major Earnest Mark Rosal of Camp Matillana, Pili, Camarines Sur were all recovered from Pastrana’s pocket.

Sonia identified Pastrana as the one who gave orders to his companions when they took her husband from their house. She recalled that he was the only short and stout one among the group. After the incident, the administrative office of the 9th Infantry Division, Philippine Army conducted an investigation and has yet to release its findings regarding the incident.

According to Jonathan’s account, Pastrana was among the ten armed men who first entered their house. Jonathan believed that they were from the military because of their bearing, clothing, combat boots, and high-powered arms that they carried. He said that on two occasions, men in military uniforms with their name badges hidden had searched his brother’s house.

Pastrana was reportedly assigned to the Public Affairs Office of the 9th Infantry Division, Philippine Army, based in Pili, Camarines Sur. It is believed that he may have been accidentally shot by his own men while they were trying to subdue their captive.

Pastor Isaias was a member of the farmers’ group Kilusang Magbubukid ng Bicol (Farmers’ Movement in Bicol) affiliated with the peasant group Kilusang Magbubukid ng Pilipinas (Farmers’ Movement of the Philippines).

A fact-finding mission conducted in August 2006 by local persons collected testimonies and evidence regarding the killing. The police and military have also conducted investigations into the case, but their reports are yet to be released.

VICTIM: Isaias Sta. Rosa
INCIDENT: Killing
ALLEGED PERPETRATORS:
Around ten 9th ID personnel
led by Corp. Lordger
Pastrana, commanded by
Major Earnest Mark Rosal,
Camp Matillana, Pili,
Camarines Sur
DATE: 3 August 2006

AHRC UA-274-2006



PHOTO: KARAPATAN

“ this is a
scandal ”

—Marjorie Lord,
England

VICTIM: Paquito H. Diaz
INCIDENT: Killing
ALLEGED PERPETRATORS:
Two unidentified gunmen
DATE: 6 July 2006

AHRC UA-254-2006



PHOTO: PCPR

Paquito Diaz: A “well-planned” killing

At 6:30pm on 6 July 2006, Paquito “Pax” Diaz (42), a former radio broadcaster, was talking to relatives on the sidewalk of Esperas Avenue, Barangay 54, Tacloban City, Leyte, near his house—while waiting for old classmates, to attend a high school reunion—when shot dead by a gunman on a motorbike.

Margarita Pelingon, the aunt of his wife, and her son Ariel witnessed the attack. According to them the gunmen were riding an XRM model motorcycle, which slowed down as they approached Diaz. One of the men pulled a .45-calibre pistol and shot Diaz at close range. The pistol was equipped with a silencer. Diaz was hit in his left cheek below his eye. He was hit again as he fell to the ground. Before the shooting the gunmen had travelled along Esperas Avenue several times, and had hidden behind a bush about nine metres away.

After the shooting, bystanders and neighbours tried to block the way of the gunmen, but they were threatened that they would be shot if they did not move out of the way. Diaz’s nephews, Antonio Pelingon and Leandro Pacheco immediately took him to the nearby Bethany Hospital by a tricycle. However, the attending physicians declared Diaz dead on arrival. According to the physicians, a bullet that pierced through his heart caused his death. Dr. Angel Cordero of the PNP Crime Laboratory conducted an autopsy.

Diaz had reportedly been receiving threats on his mobile phone, according to Jun Estoya, anchorperson of a local AM radio station.

Superintendent Anacleto Limbo, chief of police of Tacloban City, said initial police investigations had revealed that the attack on Diaz was “well-planned”; however, no substantial progress is known to have been made into the crime.

In an interview, Lulu Palencia, regional chairperson of the Citizens Anti-Crime Assistance Group, revealed that a suspect named Ronald Real was detained in Pastrana, Leyte at around 7pm on July 6. Real is a Private First Class reportedly attached to the 34th Infantry Battalion, Philippine Army in San Jorge, Western Samar. He was arrested at a police checkpoint by Senior Superintendent Sabanal, head of the Pastrana Police Station.

Pfc. Real denied any involvement in Diaz’s killing. Lulu Palencia said that it had yet to be investigated whether Pfc. Real was involved in the killing. At the time of his arrest, he was riding a motorcycle without a license plate number.

According to the January 2007 report by the presidentially-appointed Melo Commission (page 48):

Absolutely no progress has been reported [into the case]. No witness could even give a description of the perpetrators to provide sufficient basis for a cartographic sketch because the driver of the motorcycle was wearing a helmet while the gunman had a ball cap on which partly covered his face.

Eladio Dasi-an: Gunned down on way home

On 20 June 2006, Eladio Dasi-an (37) was riding his motorcycle back to his home in Sitio Tuminhao, Barangay Malusay, Guihulngan, Negros Oriental about 3 kilometres away from the town proper when three hooded men armed with .45-calibre pistols blocked his way. The gunmen shot him several times in head and chest. After making sure that he was dead, they boarded a vehicle and fled the scene.

Several days prior to the incident, Dasi-an had reportedly received information from neighbours and reliable sources that men riding on motorcycles had been asking for his whereabouts.

Dasi-an was a government employee and worked as a messenger for the Local Government Unit of Guihulngan, Negros Oriental.

George & Maricel Vigo:

“Facing a blank wall as to the identity of the suspects”

On 19 June 2006, George Vigo (33) and his wife Maricel (36) were riding on their motorcycle when two armed men shot at them, hitting George four times and Maricel twice, killing both. Both of them had reportedly received threats via SMS from a sender identified as “AralSaMasa” two weeks before their killing. Subsequently, other persons in General Santos City received similar messages (see case below).

George was a project officer of the Mindanao Youth Leadership Program of the Community and Family Services International, based in Cotabato City. The group works for internally displaced persons. Maricel worked as a communications consultant for a local public official and was area coordinator for the Solar Power Technology System of the Department of Agrarian Reform, a project funded by British Petroleum. Both were former journalists and cofounders of the Federation of Reporters for Empowerment and Equality. They had continued doing occasional media work.

The local police created a task force to investigate the killing comprised of the Police Regional Office (PRO 12), Criminal Investigation Detection Group and National Bureau of Investigation. Although the task force attributed the killing to a rebel liquidation squad, the victims’ families have said that the manner of its investigation was not thorough and its findings different from those of the police who conducted the initial investigation, who were uncertain about the identity of the killers. In a memorandum of June 19, Superintendent Danny Reyes, Kidapawan City Police Office chief, wrote that:

As of this moment, this station is still facing a blank wall as to the identity of the suspects, since, the witnesses could not identify the perpetrators because the driver was wearing a safety helmet that covered his face while his back rider used face towel to cover his head and face.

Nonetheless, without further evidence the task force has conclusively attributed the incident to insurgents.

33

VICTIM: Eladio Dasi-an
INCIDENT: Killing
ALLEGED PERPETRATORS: Three unidentified gunmen
DATE: 20 June 2006

AHRC UA-205-2006

34

VICTIMS:
1. George Vigo
2. Maricel Vigo
INCIDENT: Killing
ALLEGED PERPETRATORS: Two unidentified gunmen
DATE: 19 June 2006

AHRC UA-205-2006

On December 11 the presidentially-appointed Melo Commission investigated the killing of the Vigos and recorded the following in its January 2007 report (pages 34–36):

The spouses George and Maricel Vigo were working for People's Kauyahan Foundation, Inc. - a United Nations Development Programme ("UNDP") project partner for the upliftment of internally displaced persons, including peasant farmers. George Vigo likewise had a local AM radio show concerning agrarian reform issues. The spouses Vigo were gunned down in Singao, Kidapawan City, Cotobato by unidentified men on June 19, 2006.

Mr. Venancio Bafilar, a friend of the spouses Vigo testified that before he was gunned down, George Vigo confided to Mr. Bafilar that he had been receiving death threats, and that he was being suspected of authoring, making or otherwise being behind the production of a video recording contained in a certain compact disc. This video recording was of a certain "bloodless" raid conducted by NPA rebels upon the municipal hall and PNP Station of Magpet, Cotobato.

Bafilar mentioned that the spouses Vigo were political supporters of Congresswoman Emmylou Taliño-Santos and her faction, including Angelita Pelonio, who was running for mayor of Magpet against incumbent Efren Piñol. In fact, Maricel Vigo was working in the office of Congresswoman Taliño-Santos. The Taliños are the political enemies of the Piñol faction, which includes Cotobato Governor Emmanuel F. Piñol. Essentially, Bafilar's testimony insinuates that the murder of the spouses Vigo was political in motivation, and that the parties responsible come from the camp of the Piñols.

The spouses Vigo were also in contact with a certain Ka Benjie, a suspected NPA member, whom George Vigo interviewed a number of times in his radio show. The Vigos were also supposedly eyewitnesses when Ka Benjie was summarily executed by the military.

Fr. Peter Geremia, an American priest working for the Tribal Filipino Program of the Diocese of Kidapawan, testified on his knowledge about the deaths of the spouses Vigo. He mentioned that prior to and after the death of the Vigos, he was subjected to surveillance by unidentified armed men. George Vigo also confided to Fr. Geremia that a military asset warned him (George Vigo) that he was in the "listahan" of the military.

After the killing of the Vigos, Fr. Geremia also received written death threats that the killing of the Vigos was a message to him and the Tribal Filipino Program that they would be next. The written threat more or less stated that "whoever supports the NPA, death is what they deserve." In one incident in Columbio, Cotobato, Fr. Geremia was being followed by some men, one of whom suddenly drew his gun. Upon seeing the gun, Fr. Geremia's companions rushed him inside a store and later asked for help from the house of Columbio Mayor Bermudez. Mayor Bermudez, however, stated that there was nothing he could do because, he said, that the gunmen were military.

Fr. Geremia also testified that in a media presentation by Col. John Bucu of the 40th IB Intelligence Unit, he (Fr. Geremia) was identified as a supporter of the NPA – a fact which Fr. Geremia strongly denies. In fact, Fr. Geremia mentions that after confronting Col. Bucu and clarifying that he was not an NPA supporter, the latter apologized for the false information they received.

However, Fr. Geremia was informed that his name and those of his staff are still mentioned in interrogations of suspected NPA's, and that he is still under surveillance, albeit more discreetly. Fr. Geremia stated that the probable reason why he and his colleagues and staff were suspected of being NPA supporters was their constant monitoring of human rights violations and providing legal assistance to suspects detained by the military. In fact, with their aid, some of these suspects filed counter-charges against military officers, such as Major Ruben Agarcio, Lt. Eduardo Manukan, and Col. Cesar Idio of the 25th IB. Fr. Geremia requested the Commission and the National Bureau of Investigation to look into the threats against him and his staff, and the reason for the surveillance on them.

Apart from their oral testimony, the aforementioned witnesses also presented their written statements together with supporting documents. The affidavits of other witnesses, namely Gregorio Alave, Mary Grace Dingal, and Rea Ligas, were submitted to the Commission. Due to lack of time, however, they were no longer called to deliver oral testimony.

Gregorio Alave, the younger brother of Maricel Vigo, claimed to have seen a certain Toto Amancio in the scene of the crime a few minutes before the shooting of the Vigos. Amancio is said to be a notorious gun-for-hire connected with powerful local politicians whom Alave did not identify but insinuated to be the Piñols. Despite his information, the Task Force Vigo created by the provincial government to investigate the Vigo killings accused a certain Dionisio "Jek-Jek" Mandanguit as the gunman. Alave, however, claims that this is not possible because Madanguit belonged to the 39th Infantry Battalion of the Philippine Army and was in the company of the CIDG long before the Vigo killing.

Vincente Barrios: Gunman walks out on murder plan

On 10 June 2006, at around 9:30pm an armed man wearing a balaclava forcibly entered the house of union leader Vicente Barrios in Purok 2, Valencia, Barangay New Alegria, Compostela, in Compostela Valley Province. According to witnesses, the man who entered the house was carrying a rifle while a companion served as a lookout outside. Barrios and his wife were in their bedroom at the time. Two other relatives were also inside the house, and they panicked and ran towards the room where Barrios and his wife were located when they saw the gunman. However, the gunman also turned and fled the house.

Barrios had earlier also been threatened. He was once hit with a sling shot pellet while riding on a motorcycle on his way home and had been threatened with guns shown to him while at work in the the banana packing plant of the Fresh Banana Agricultural Corporation in Compostela. Prior to the June 10 incident, Barrios had also been warned by one of their union members that he had heard of a plot to kill him.

Barrios is president of Nagkahiusang Mamumuo sa Suyapa Farms (United Workers of Suyapa Farms). The threats against him could be related to a case filed against the management of the Fresh Banana Agricultural Corporation with the Department of Labor and Employment for non-payment of living cost allowances, holiday pay, service incentives and non-wage benefits.

“ what kind of government would allow these killings ? ”

*—Erlinda L. Natulla,
Manila*

35

VICTIM: Vicente Barrios
INCIDENT: Attempted killing
ALLEGED PERPETRATORS:
Two unidentified gunmen
DATE: 10 June 2006

AHRC UA-191-2006

The military has been connected with busting labour unions in Compostela. Findings by the International Labor Solidarity Mission (ILSM) held in May 2006 revealed that elements of the 36th and 28th Infantry Battalions, Philippine Army had been active in busting labour unions there in 2004 and 2005. In September 2005, Barrios was himself called for questioning by elements of the 28th IB, who accused him of being part of the New People's Army rebel group.

Vincente Barrios: Second time shot, with three friends

Before going to print it was learned that on 15 December 2006 Vicente Barrios was shot a second time, this time with three friends, one of whom has died.

Barrios was among a group of eight travelling to work together on motorcycles when they were overtaken by two men, also on a motorcycle, one of whom opened fire just a short distance from the factory in Barangay Alegria.

A single .45-calibre bullet hit Barrios in his left arm and abdomen. Three fellow unionists, reported to be Aldrin Cortez, Dennis Glenzondon and Gerson Lastimoso were also seriously wounded: Lastimoso was hit in the kidney and died in hospital at Tagum City. The other two men were hit in the shoulder, and neck and face respectively.

36

VICTIMS:

1. Markus Bangit

2. Gloria Casuga

INCIDENT: Killing

ALLEGED PERPETRATORS:

Unidentified gunmen

DATE: 8 June 2006

AHRC UA-191-2006

Markus Bangit & Gloria Casuga: Murdered at bus stop

Markus (Rafael) Bangit and his son Banna were onboard a bus for Baguio City when he was killed at a stopover restaurant around 3:30pm on 8 June 2006 in Echague, Isabela. The gunmen, wearing hoods, shot and killed another passenger, Gloria Casuga when she screamed upon seeing them shoot Bangit. The perpetrators then fled in a van that had apparently been tailing the bus since it had left Tabuk, Kalinga.

Bangit died from four gunshot wounds to his chest and stomach; his son was not hurt. Gloria Casuga, who was school principal of Quezon National High School in Quezon, Isabela, died from five bullet wounds.

According to the January 2007 report of the presidentially-appointed Melo Commission, "There has been no progress whatsoever in the investigation of the case."

Bangit was the leader of the indigenous Malbong community. His killing is suspected to be related to his work as a regional officer of the Cordillera People's Alliance and chairperson of the Binodngan Pongors Organization.

Noel Capulong: Shot and killed after visiting people's pharmacy

Around 6pm on 27 May 2006, Noel Capulong was on his way home after visiting a "Botica ng Bayan" (pharmacy of the people), a project of his political party, Bayan Muna, in Calamba City, Laguna. While he was at his service vehicle in Barangay Parian, one of the two gunmen in hoods approached and fired at him before boarding a motorcycle and speeding away.

Capulong suffered gunshots to his jaw, the left side of his body and chest. He was immediately taken to the nearby St. John Hospital but declared dead on arrival.

At the time of his death, Capulong was the deputy secretary general of Bayan Muna (Southern Tagalog), regional staff of Bagong Alyansang Makabayan, and a spokesperson for the Southern Tagalog Environmental Advocacy Movement. He was active in his church and chaired the Christian Witness and Service Committee for the United Church of Christ in the Philippines, North East Southern Tagalog Conference. He had helped to form the Southern Tagalog Regional Ecumenical Council, was a member of the Kapatirang Simbahan para sa Bayan (Kasimbayan) and was convenor of the Christian Movement for Good Government.

According to the January 2007 Melo Commission report, "A criminal complaint for murder is supposed to have been filed against a certain Alfredo Alinsunurin with the City Prosecutor's Office, Calamba City, but the file does not indicate the evidentiary basis for the charge. The respondent is at large."

Rev. Andy Pawican: Pulled away from congregation

At around 11am on 21 May 2006, Rev. Andy Pawican (30), a pastor with the United Church of Christ in the Philippines, was allegedly seized by armed men believed to be elements attached to the 48th Infantry Battalion, Philippine Army, in Sitio Maluyon, Barangay Fatima, Pantabangan, Neuva Ecija.

Pawican was talking to members of his congregation—most of them women—as they were on their way to the house of other fellow church members for lunch about 100 metres away when armed men suddenly appeared and seized him. They told the others to leave and pulled him off.

At around 5pm that day, villagers heard five gun bursts. Later, Pawican's body was found near to some villagers' houses.

After they learned of the incident, the victim's relatives reported it to a local police station, but instead of registering their complaints the police insisted that Pawican's death was the result of a legitimate encounter in Sitio Lomboy, Barangay Tayabo, San Jose, early that day. This contradicts witnesses' accounts.

37

VICTIM: Noel Capulong
INCIDENT: Killing
ALLEGED PERPETRATORS:
Two unidentified gunmen
DATE: 27 May 2006

AHRC UA-175-2006

38

VICTIM: Andy Pawican
INCIDENT: Killing
ALLEGED PERPETRATORS:
48th IB personnel, Delta
Company led by Lt. Tagliwag
DATE: 21 May 2006

AHRC UA-175-2006

Pawican's killing could have been related to his work in the community. The village where he was working had been occupied by the military since October 2005. Residents were complaining of military abuses, in particular the theft of farm animals. Pawican was active in addressing his congregation's concerns, angering soldiers who had allegedly resorted to more harassment of the community.

39

VICTIM: Annaliza Abanador
INCIDENT: Killing
ALLEGED PERPETRATORS:
Two unidentified gunmen
DATE: 18 May 2006

AHRC UP-111-2006



PHOTO: KPD

Annaliza Abanador-Gandia: Shot down at shop counter

Annaliza Abanador-Gandia (35) was gunned down around 5:30pm in her workplace: soon after two men riding a motorcycle entered the Dakki Sale Center in Balanga, Bataan where she was working as a an assistant personnel officer, she was found dead with four .45-calibre gunshot wounds to her head and body.

Abanador was a leader of a women's group affiliated with the Kilusan para sa Pambansang Demokrasya, a national political organisation.

The presidentially-appointed Melo Commission recorded the following in its January 2007 report concerning her case (page 42):

The police filed charges against the alleged suspects Allan Prado @ Ian and Jose Carabeo @ Toktok, reportedly both members of the CPP-NPA based on the identification of a tricycle driver who supposedly saw the suspects coming out of the Dakki Sale Center. The driver identified the suspects from photographs shown to him by the police.

Based on said identification and without having apprehended the suspects remaining at large, the PNP filed a criminal complaint for murder with the Office of the City Prosecutor of Balanga City, Bataan on May 30, 2006.

Mario Domingo: Killed by hired guns of landlord

On 17 May 2006 Mario Domingo was attacked by armed men allegedly with connections to an influential landowner, Farley Gustilo. At that time, Domingo and his companions were visiting land awarded to them by the Department of Agrarian Reform that was formerly owned by the Gustilos.

Before heading to the farmland, Domingo sought a security escort from the Regional Mobile Group in Hacienda Cambuktot, Barangay Mansalanao, La Castellana, as he had received reports that 20 of the Gustilos men, some armed, were present there. When the group arrived, the armed men started shooting at them; Domingo died on the spot. The two attackers identified as shooting Domingo were Romulo Ellano and Eduardo Semillano.

Domingo was president of the Hacienda Cambuktot Agrarian Reform Beneficiaries Association. The contested land was awarded to Domingo's group in 1991. However, the Gustilos had filed a motion for an injunction to prevent the beneficiaries from taking it over.

At the time of the AHRC appeal being issued, no perpetrators involved in the shooting had been arrested, despite charges having been filed by Task Force Mapalad against them.

Jose Doton: Tailed and shot on motorcycle

On 16 May 2006, at around 10:30am Jose Doton and his brother Cancio were riding on their motorcycle when attacked by gunmen on another motorcycle, who were apparently tailing the victims. They fired at them soon after they overtook the victims' motorcycle. When the victims' motorcycle fell to the ground, one of the gunmen alighted and shot Jose in the head at close range. Cancio also suffered two gunshot wounds. The attackers immediately left.

At the time of his death, Doton was the secretary general of the Bayan Muna party in Pangasinan and president of Tignayan dagiti Mannalon A Mangwayawaya.

The presidentially-appointed Melo Commission recorded the following on Doton's killing in its January 2007 report (page 44):

Jose C. Doton was the Secretary General of the Bagong Alyansang Makabayan (Bayan Muna) and President of TIMMAWA (Tignay Ti Mannalon a Mangwayawaya ti Agno). At about 10:30 a.m. on May 16, 2006, while the victim and his brother, Cancio Doton, were on their way home on board a motorcycle, with the victim as backrider, two persons wearing helmets on board a motorcycle who were apparently tailing them fired several shots at them. The victim and his brother fell down. Thereafter, one of the gunmen approached Jose Doton who was lying on the ground and shot him in the head. He was rushed to a hospital but was pronounced dead on arrival. His brother was hit at the back but managed to survive. The incident happened on Anong Road, Sabangan River, Brgy Camanggan, San Nicolas, Pangasinan.

A complaint for murder and frustrated murder has been filed against a certain Joel S. Flores because: (a) the motorcycle supposedly used in the killing is registered in his name; and (b) the .45 calibre pistol found in his possession when subjected to a ballistic examination turned out to be the one used in the shooting.

According to the police report, "the identities of the suspects cannot be established as of this time since there are no witnesses who had surfaced to give an eyewitness account of the incident and that the motives for the killing cannot be established." There is no report on the status of the case filed against Joel S. Flores.

Elena Mendiola & Ricardo Balauag: "There's somebody..."

It was past 1pm on 10 May 2006 when Elena "Baby" Mendiola, her partner Ricardo "Ric" Balauag and two of her grandchildren arrived in Barangay Garet, Echague. They were about to buy mangoes and take them to Manila, but before going the couple first went to visit members of the Nagkakaisang Magsasaka sa Echague (United Farmers of Echague) in the village. The couple stayed there until the evening, and decided to have dinner at the house of farmer Ben Caculitan, together with Rudrigo Aido, Carmelo Agcaoili and Rudy Corpuz. According to Elena's daughter Alena, around 7pm she received call from Elena telling her that they would take dinner at the farm. It was the last conversation they had.

41

VICTIMS:

1. Jose Doton (killed)
2. Cancio Doton (wounded)
INCIDENT: Killing
ALLEGED PERPETRATORS:
Unidentified gunmen
DATE: 16 May 2006

AHRC UA-175-2006

42

VICTIMS:

1. Elena Mendiola
2. Ricardo Balauag
INCIDENT: Killing
ALLEGED PERPETRATORS:
Unidentified gunmen
DATE: 10 May 2006

AHRC UA-096-2006
UP-106-2006
UP-111-2006

“prosecute the perpetrators! break impunity!”

—*Fara Diva Cortes
Gamalo, Leyte*

At about 8pm Elena and Ricardo were preparing to leave the village. Elena woke her grandchildren up and took them to their car. She then went back to a hut to say goodbye to her friends. She suddenly noticed a gunman leaning on one side of the hut with his gun aimed at her. She said “There’s somebody...” before being shot twice in the hip. She tried to move away, but the gunman continued to fire and killed her on the spot.

Ricardo feared for their grandchildren’s safety, and tried running towards the vehicle where they were but another gunman shot him dead too.

During the shooting, the five people inside the hut dropped to the ground, fearing that they would be shot also. After the gunmen fled on a motorcycle, they took the grandchildren inside while Rudy’s wife Marga Paat called Alena and informed her about the shooting. Alena immediately sought the assistance of the police. According to Alena, they didn’t seem to believe her story or take any immediate action to investigate the incident. Around midnight, the police finally arrived at the crime scene to investigate.

Elena suffered 14 gunshot wounds to different parts of her body; her partner Ricardo suffered two gunshot wounds to his right side. The five people inside the hut could not see the gunmen clearly because there was a power shutdown at the time.

The police have claimed to have made arrests, yet no proper and impartial investigation was carried out into the incident.

The presidentially-appointed Melo Commission recorded the following on the case in its January 2007 report (page 48):

A witness, Bayani Villanueva, gave a supplemental statement dated June 1, 2006 that on May 10, 2006 at around 8 p.m., while on board his motorcycle going to the house of Ruby Corpuz in Barangay Garet Sur, Echague, Isabela to meet with Ricardo Balauag he heard several bursts of gun fire prompting him to seek cover and at that juncture he saw two armed men in black sweaters riding in tandem on a sports-type motorcycle removing their bonnet masks while fleeing towards his direction. As the light of his motorcycle was still on, he was able to identify Renato Busania and Timoteo Corpuz whom he supposedly met on March 2, 2006 after he was told by Ricardo Balauag about the two persons frequenting his house and threatening him with harm if he failed to produce something.

43

VICTIMS:

1. Jemias Tinambacan
(killed)

2. Marilou Tinambacan
(wounded)

INCIDENT: Killing

ALLEGED PERPETRATORS:
Mamay Guimalan and three
other unidentified gunmen

DATE: 9 May 2006

AHRC UA-161-2006

Rev. Jemias Tinambacan: Ambushed on road

At around 5:30pm on 9 May 2006, Rev. Jemias Tinambacan (49) and his wife Rev. Marilou Tinambacan were driving to Oroquieta City from Lopez Jaena, Misamis Occidental, when four gunmen riding two DT Yamaha motorcycles approached their vehicle and began shooting at them. Rev. Jemias Tinambacan suffered an injury to his head, and his van lost control and crashed into a tree. The perpetrators then proceeded towards the vehicle saying, “The woman is still alive”. They then fired three times towards Rev. Marilou Tinambacan but failed to kill her. When

one of the gunmen came close to the van's door, she noticed that he was Mamay Guimalan, a member of military intelligence. The gunmen then ran away immediately.

Jemias and Marilou were sent to Misamis Occidental Provincial Hospital in Oroquieta City. Jemias died soon after, while his wife received treatment at the hospital. The perpetrators are still at large.

The couple had been actively involved in human rights work in the region. In particular, Jemias was an active member of the Gloria Step Down Movement in Misamis Occidental and the provincial chairman of the Bayan Muna party.

Gerardo Cristobal: Attacked by police and gunman

Labour leader Gerardo Cristobal was in a car on a crowded street in Barangay Anabu, Coastal, Imus, Cavite on 28 April 2006. He was going for a protest when three armed men in hoods riding in another car, blocked his way and attacked him. Cristobal had a licenced gun with him, which he had obtained after threats on his life from one of the three men who was later identified as Larry Reyes, a personal bodyguard of Vice-Mayor Manny Maliksi of Imus, Cavite—son of the governor. An exchange of gunfire took place between Cristobal and one of his attackers, wounding both of them.

After the shooting the gunmen fled, while a motorcycle trishaw driver took Cristobal back to his house and then on to the Pilar Hospital for treatment for serious gunshot wounds to his stomach, hip and hand.

The person whom Cristobal shot was admitted to the same hospital. He was identified as Senior Police Officer 1 Romeo Lara, a member of police intelligence in Imus, Cavite. SPO1 Lara suffered gunshot wounds to his head and shoulder. However, in an interview on local radio station dzRH, Colonel Rodel Sermonia, head of the intelligence operatives in Imus accused Cristobal of attacking Lara, not vice versa. Another person identified as being involved was Larry Reyes, a member of the Civilian Security Unit (CSU) in Imus; the third person remained in the vehicle that blocked Cristobal's way.

Later in the afternoon, Cristobal was transferred to San Juan de Dios Hospital in Paranaque City, Metro Manila. Cristobal's relatives, who were with him at the hospital, were concerned by the presence of Special Weapons and Tactics personnel from Imus at the hospital.

One count of frustrated murder and two counts of attempted murder were filed against Cristobal before the Office of the Provincial Prosecutor in Imus, Cavite on April 28. Superintendent Efren Castro, the Imus police chief, claimed that Lara and his two companions were on their way to an anti-illegal drugs operation when the shooting took place. The charges against Cristobal were dismissed months later, but his alleged attackers are still at large.

44

VICTIM: Gerardo Cristobal
INCIDENT: Attempted killing
ALLEGED PERPETRATORS:
SPO1 Romeo Lara
(intelligence), Larry Reyes of
Civil Security Unit (SCU) and
one unidentified companion
DATE: 28 April 2006

AHRC UA-142-2006

Cristobal is critical of Governor Ireneo “Ayong” Maliksi of Cavite for his policy of “No Union, No Strike”, which practically prohibits protests against the unfair labour practices of foreign-owned factories in Cavite.

In January 2005, Cristobal was allegedly severely tortured by the Imus police after being falsely accused of involvement in the killing of another labour leader, Cris Abad, a former union secretary of Kristong Manggagawa, a labour union of EMI (EDS Manufacturing Incorporated) Yazaki in Cavite, of which Cristobal had been president. He was that time released without charge after police investigators could not produce sufficient evidence.

45

VICTIMS:

1. Gavino Abrojeno

2. Edgar Bautista

INCIDENT: Attempted killing

ALLEGED PERPETRATORS:

Five unidentified men

DATE: 26 April 2006

AHRC UA-151-2006

Gavino Abrojeno & Edgar Bautista:

Botched attempted killing

On 26 April 2006, at around 3:15pm, Gavino Abrojeno and Edgar Bautista were on their way to a meeting to discuss plans for a May 1 Labour Day demonstration. While waiting for a ride from their office in Dagupan, San Mateo, Isabela, an unmarked blue van stopped in front of them. The van’s driver started calling for passengers to Santiago, a town in the province. Gavino and Edgar decided not to take the van when they saw that all the passengers on board were male and looked suspicious.

After the van left, two men came by motorcycle and stopped in front of the two. One of the gunmen took out a .45-calibre pistol and tried to shoot at Edgar, but the gun did not fire. Gavino and Edgar quickly ran off and shouted out to bystanders in the area. When Edgar tried to hide behind some plants, three men came out from a nearby restaurant and grabbed his neck and arms, asking why he was running. Edgar explained that somebody tried to shoot him. The men tried to pacify him and told him to stop running. Because of the noise Gavino and Edgar made, more customers came out. The three men accosted Edgar, and then ran towards the town centre of San Mateo.

Gavino is a spokesperson of Danggayon, a regional peasant movement in Cagayan Valley who had been actively speaking at protest rallies against militarisation in the region. Edgar’s wife Grace is a human rights leader and worker in the area who was also harassed in October 2005 after she spoke before peasants in Naguilian, Isabela.

It was later reported that soldiers have been asking about the men’s whereabouts. Colonel Shalimar Imperial, 5th Infantry Division intelligence officer, has also publicly accused them of being members of the New People’s Army.

Enrico Cabanit: A police cover-up?

On 24 April 2006, Enrico Cabanit and his daughter Daffodil were buying food at the public market in Panabo City when a gunman wearing a hood shot them. Enrico died on the spot due to multiple gunshot wounds to his head, and his daughter suffered a gunshot to her lungs. She was sent to the Intensive Care Unit of the Davao Regional Hospital in Tagum City.

Enrico had just finished a meeting with officials of the Department of Agrarian Reform where he and other farmers demanded the inclusion of a 400 hectares citrus plantation owned by the Floirendo family under the Comprehensive Agrarian Reform Program. The disputed land is part of over 1000 hectares of land under the Worldwide Agricultural Development Corporation (WADECOR) owned by the Floirendos.

Enrico was secretary general of Pambansang Ugnayan ng mga Nagsasariling Lokal na Organisasyon sa Kanayunan, a land reform group. He was also the chair of the WADECOR Employees Agrarian Reform Beneficiaries Association Inc. His death is believed to be connected to his struggle for land reform. He confronted wealthy and influential landowners in the area, including the Floirendos.

Daffodil went into hiding after getting out of hospital out of fear for her life. She has not been afforded any adequate protection.

Meanwhile, the Panabo City Police were unable to secure the relevant physical evidence from the crime scene. Not all spent shells from the shooting were recovered. They were unable to get photographs and sketches of the crime scene. Police investigators used a defective camera, so the photographs taken were of no use. There was no autopsy or postmortem examination performed on Cabanit's body.

Furthermore, one of the investigators, PO3 Domingo Rañain, went on leave for a month the day after he began the investigation. When he returned to work following his leave, he reportedly required the victim's family to produce 25,000 Pesos (USD 500) for the body to be exhumed for autopsy. The victim's family could not produce the amount and as a result the body was not promptly exhumed.

Although police investigators produced sketches of the gunmen, their descriptions contradicted those of other witnesses also present at the crime scene. It was later found out that those who provided descriptions of the gunmen were police informants. The description and information provided by other civilian witnesses has reportedly not been considered.

Three or four days after the shooting, police investigators released sketches and identified the gunman as Monching Solon—a local hired gun and police informer—on the basis of the opinion of a police officer assigned in nearby Tagum City, PO3 Salvador Dumas.

The investigators then searched for Solon. They received information that he was in the nearby town of Sto. Tomas, Davao del Norte, but he could not be found. On 26 May 2006, Solon was reportedly killed in a shootout in General Santos City.

Although the two police informers identified Solon as the gunman in Cabanit's killing, one of two other witnesses sympathetic to the Cabanit family insists that Solon was not the

VICTIMS:
1. Enrico G. Cabanit (killed)
2. Daffodil Cabanit (wounded)
INCIDENT: Killing
ALLEGED PERPETRATOR:
Two unidentified gunman
DATE: 24 April 2006

AHRC UA-140-2006
 UP-175-2006
 UP-009-2007

**“I find it sick
that people
would actually
do this”**

—*Nancy Nguyen,
Australia*

person. Concerns that the real killer has not been identified are compounded by allegations relating to the possible involvement in the killing of one of the members of the Panabo City Police Office, which is leading investigation of the case. A reliable source connected to the victim has claimed that a hired killer was paid 150,000 Pesos (USD 3000) to carry out the murder, and that this person in turn had hired a Panabo City policeman to do it. This information was confirmed by two separate sources. These allegations, however, have not been adequately investigated.

On December 11 the presidentially-appointed Melo Commission investigated the killing of the Cabanit and recorded the following in its January 2007 report (pages 36–38):

Enrico Cabanit was the chairperson of the WADECOR Employees and Agrarian Reform Beneficiaries Association, Inc. (“WEARBAI”) and the Secretary General of Pambansang Ugnayan ng mga Nagsasariling Organisasyon sa Kanayunan (“UNORKA-National”). He was assassinated by an unidentified gunman wearing a bonnet at the public market of Panabo City, Davao Del Norte on April 24, 2006. Wounded in the incident was Daffodil Cabanit, Enrico Cabanit’s daughter.

As witnesses, the Commission called P/Senior Investigator Wilfredo Puerto and PO3 Domingo Ranain, who investigated the Cabanit murder. PSI Puerto is the Intelligence Officer of the Panabo City Police Station, while Ranain is the police investigator on duty for the Cabanit murder. They both claimed that they already “solved” the crime and that it was a certain Enrique Solon who was the gunman. Enrique Solon was supposedly identified post mortem by eyewitnesses, as he had been killed in similar fashion in General Santos City some days later. Likewise, a certain Benedick Mallorca supposedly overheard Solon drunkenly boasting about killing Cabanit.

However, there are numerous discrepancies and suspicious details regarding the investigation which tended to disprove the police theory, thereby prompting the General Counsel to intensively cross-examine the witnesses. In particular, the following details were suspicious:

- The body of Cabanit was not autopsied before burial, in violation of standard procedure, and despite requests for autopsy by Cabanit’s family.
- The supposed eyewitness, Mr. Ryan Catalan, never stated in his affidavit that he saw the face of the assailant. Hence, his identification of Solon’s body as the gunman is unreliable.
- Solon’s body and face at the time the supposed witnesses identified it were severely swollen (as shown in the submitted picture), that it was virtually impossible to identify him based on his alleged fleeting appearance at the crime scene.
- The police reported that Cabanit was shot with a 9mm handgun three times, and that they recovered 9mm cartridges at the scene of the crime. However, the NBI expert witness stated that, upon his examination, Cabanit sustained only two (2) gunshot wounds and that, due to their diameter, they could not have been caused by a 9mm slug, but only by no less than .45 caliber pistol slugs.
- The police did not bother to bring Daffodil Cabanit to see and identify Solon as the gunman. Daffodil Cabanit is in the best position to see, describe and identify her father’s assailant.

After several questions, the police officers stated that the investigation was still ongoing in that they have yet to identify the mastermind for the killing. The Commission inquired as to what steps the police were taking to do so. The police officers stated that they were waiting for further information from their witness, Mr. Benedick Mallorca. The Commission noted that the investigation should not be kept idly waiting for a witness to volunteer information, especially since the case of Cabanit is, according to Task Force Usig's report, "under extensive investigation."

The NBI's Medico-Legal examiner, Dr. Edgar Saballa, testified on his autopsy of Cabanit's body undertaken after its exhumation was ordered by the Commission. He discovered that there were two (2) gunshot wounds and not three (3) as stated in the police report. He also concluded that, based on the entry wounds, the weapon used was a .45 caliber pistol, and definitely not a 9mm pistol as stated in the police report. Unfortunately, no slugs were recovered from Cabanit's body for possible ballistic examination.

Last to testify was Mr. Rodolfo Imson, the local Regional Director of the Department of Agrarian Reform. He testified as to the good character of Cabanit, but that the DAR has no idea who was behind his killing. He, however, mentioned that violence is a constant problem in the implementation of the agrarian reform program, and that he himself has been receiving death threats from unknown parties.

Porferio Maglasang Sr.: Taken to chapel to die

On 22 April 2006 three gunmen shot Porferio Maglasang Sr. dead at a chapel near his house in Kabankalan City. According to Maglasang's wife, the gunmen went to their house and asked her husband to go for a talk. When he asked them who they were, he was told to come with them to a chapel nearby. They did not identify themselves or state their purpose for visiting. Soon after Maglasang went out with the three men to the chapel he was shot several times at close range.

Maglasang was the chairperson of the Kabankalan Chapter of the National Federation of Free Farmers (Pambansang Katipunan ng Malayang Magbubukid). He was among its leaders who were earlier forced to evacuate when the military launched Operation Thunderbolt in Southern Negros, particularly in Sipalay, Cauayan, Candoni, Ilog and Kabankalan. Maglasang and other fellow colleagues had long been fighting for more than 2000 hectares of land outside Kabankalan City, which is being tilled by almost 1000 families.

Marilou Sanchez & Virgilio Rubio: Tied up and shot

In the night of 22 April 2006, Marilou Sanchez (42), husband Hilario ("Larry") and brother, Virgilio Rubio (40), were sleeping inside their hut in Barangay Magsikap, General Nakar, Quezon. At around 2:30am, around ten armed men believed to be elements of the 16th Infantry Battalion, Philippine Army, entered the hut. The men were wearing black long-sleeved shirts, five were wearing hoods and others were in military-style pants. The men immediately tied up Marilou and her brother Virgilio. They asked them who was Larry Sanchez, and Hilario responded affirmatively. The armed men accused Hilario of being a member of the New People's Army. He denied this and told them that he was serving

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VICTIM: Porferio Maglasang
INCIDENT: Killing
ALLEGED PERPETRATORS:
Three unidentified gunmen
DATE: 22 April 2006

AHRC UA-223-2006

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VICTIMS:
1. Marilou Sanchez (killed)
2. Virgilio Rubio (killed)
3. Hilario Sanchez
(assaulted)
INCIDENT: Killing; assault
ALLEGED PERPETRATORS:
Ten 16th IB personnel
DATE: 22 April 2006

AHRC UA-151-2006

the local government as chief of village security. The men started beating Hilario until blood came out from his nose and they thought he was unconscious; they tied him up. Then some of them ordered their companions to take Virgilio and tied him up on the second floor of the hut. Marilou was also tied to a post.

Hilario managed to untie his hands. One of the armed men approached his wife and shot her. He also heard gunshots from upstairs. Hilario immediately got up and ran off, with the attackers shooting at him. He stayed in the forest until daytime.

Marilou died from gunshot wounds to her head while Virgilio had wounds to his chest. The armed men also ransacked and stole items from the house.

Marilou was a member of the Bayan Muna party, while Hilario is as he said, chief of the Barangay Tanod (security force) of Barangay Magsikap and also a Bayan Muna member.

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VICTIM: Rico Adeva
INCIDENT: Killing
ALLEGED PERPETRATORS:
Ronald Europa,
Revolutionary Proletarian
Army-Alex Boncayao
Brigade member, "Boy
Negro" & unidentified man
DATE: 15 April 2006

AHRC UA-130-2006
UP-175-2006

Rico Adeva: Shot face down in river basin

On 15 April 2006 Rico Adeva (39) and his wife Nenita were on their way to Talisay town in Negros Occidental when they were stopped by armed men. It was around 4pm as the couple passed through the Imbang River when three men wearing jackets and armed with .45-calibre pistols blocked their way. Rico was shot after they were told to turn their backs and lie down with their faces to the ground. He suffered ten gunshot wounds in the head, ears, hands and torso.

Rico's wife Nenita said that his murder was prompted by his involvement in the struggle for agrarian reform. He was a staff member of Task Force Mapalad, an agrarian organisation assisting peasant beneficiaries of the Comprehensive Agrarian Reform Programme to claim lands awarded to them.

In a sworn statement on April 24 Nenita identified two of the gunmen as Ronald Europa, a distant relative of her husband, and another person known as Boy Negro. Ronald Europa has been confirmed to be a member of the Revolutionary Proletarian Army-Alex Boncayao Brigade rebel group. Nenita recounted having met with Ronald in 1997 and 1998, when he and his companions visited their house. Nenita had not seen him again since. However, some Task Force Mapalad leaders had reportedly been approached by the three gunmen on April 9, who had asked what day Adeva usually came that way. Since then, Ronald and his group had been seen passing through Barangay San Antonio each day.

Although the rebel group's leadership has reportedly confirmed that Ronald Europa is their member in the Silay area, no arrest has been made. They have also insisted that since 2000 Ronald has been based in an area far from the barangay where the killing took place. Ronald's unnamed brother, alleged to have been the other person involved in the killing, has just recently joined the group and is based in Central Region, Himamaylan. However the group has reportedly denied knowing the other gunman, Boy Negro.

Elpidio de la Victoria: No empty threats

Elpidio de la Victoria, programme director of the environmental organisation Cebu City Bantay Dagat Commission, was shot in front of his house in Barangay Dauis, Talisay City on 12 April 2006. He died from multiple gunshot wounds a day after the incident.

De la Victoria and his colleague Antonio Oposa were at the forefront of the fight against destructive and illegal methods of fishing in the Visayas region of central Philippines. Their Visayan Sea Squadron, a volunteer organisation, is campaigning for the protection the marine environment. Prior to his death, de la Victoria disclosed that a million pesos had been raised to kill him and Oposa. In an email received by the AHRC, Oposa said he was convinced that “the threats against me have not been empty”.

On April 17 at around 3pm, one of the alleged perpetrators of de la Victoria’s murder, SPO1 Marcial Bacudo Ocampo (43) was arrested. He was identified by witnesses in a police line up at the Criminal Investigation and Detection Group 7 headquarters in Cebu City and subsequently disarmed of his .45-calibre service pistol. However, there was no warrant for his arrest when he was detained. The police claim that his arrest was made in a “hot pursuit” operation and therefore they did not require a warrant. However, hot pursuit arrest can be made only within hours of the commission of a crime. In this case, Ocampo was arrested five days after the murder.

Nicanor Briones: Shot while with friends at bus terminal

On 6 April 2006 at around 2:20pm Nicanor Briones and companions—Jariz Vida, Eric Torrecampo, Leo Caballero, Nida Barcenas and Norberto Autor—were attacked by two gunmen riding on a motorcycle while at the CBD bus terminal in Naga City, Bicol, armed with a .45-calibre pistol with silencer. Briones was immediately sent to the Bicol Medical Center for treatment. He suffered five gunshot wounds from which he has since recovered.

The group, members of the Camarines Sur chapter of the Bayan alliance, had just concluded the launch of a campaign to oppose changing the national constitution, which at least 127 member organisations had joined, when they were attacked. Prior to the attack the group was among others in the area subjected to propaganda for their activities.

Florencio Perez Cervantes: “Crossfire” killing in bed

At around 2am on 5 April 2006, Florencio Cervantes (27) and his family were sleeping when armed men in hoods broke in and started shooting. Florencio’s wife Elsa grabbed the attackers’ rifles to prevent them shooting their children. Florencio told her to take the children and escape. As they fled they saw five accomplices of the attackers, who attempted to block their way, and noticed several armed men cordoning off their place. As they fled they heard several gunshots coming from the house.

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VICTIM: Elpidio de la Victoria
INCIDENT: Killing
ALLEGED PERPETRATOR:
SPO1 Marcial Ocampo
DATE: 12 April 2006

AHRC UA-131-2006

51

VICTIM: Nicanor Briones
INCIDENT: Attempted killing
ALLEGED PERPETRATORS:
Two unidentified gunmen
DATE: 6 April 2006

AHRC UA-140-2006

52

VICTIM: Florencio Cervantes
INCIDENT: Killing
ALLEGED PERPETRATORS:
36th IB personnel led by
Capt. Bungcarawan
DATE: 5 April 2006

AHRC UA-130-2006

After the attackers left in two service vans, Elsa and her children returned. She saw that her husband was seriously wounded and dying. In fact, Florencio had suffered 47 gunshot wounds.

An hour later, two vans carrying armed men in military uniforms arrived. They asked the victim's family and villagers what had happened. After taking pictures of the victim and his house, they left.

On 7 April 2006, a local newspaper reported the death as having occurred due to crossfire between the New People's Army and elements of the 36th Infantry Battalion, Philippine Army led by Captain Bungcarawan. The report clearly contradicts the victim's family's account.

Florencio was an active supporter of political party Bayan Muna in the 2004 elections. He was vocal on various peasant issues in his community.

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VICTIMS:

1. Liezelda Estorba-Cuñado (killed)

2. Gerry Cuñado (wounded)

INCIDENT: Killing

ALLEGED PERPETRATOR:
Joel Bayron, suspected member of Barangay Intelligence Network under 15th IB

DATE: 3 April 2006

AHRC UA-118-2006

Liezelda Estorba-Cuñado:

Shot by neighbour after being labelled communist

Liezelda "Inday" Estorba-Cuñado (30) and her husband Gerry (30) were awakened at dawn on 3 April 2006 in Panadtaran, Candijay, Bohol, by their neighbour Joel Bayron and his wife. They were shouting in front of their house, and yelling that the Cuñados were communists and terrorists. They also accused Gerry and Liezelda of throwing rocks at their house the night before.

Gerry suggested that the Bayrons should solve this problem later in the morning because they were disturbing the neighbours. Joel left with his wife, but ten minutes later they both returned and Joel was carrying a gun. He shot Gerry in the arm, and shot Liezelda at close range in her chest before fleeing.

Other neighbours immediately sent Gerry and Liezelda to the municipal hospital. Liezelda was declared dead on arrival. Gerry was later transferred to the Provincial Hospital for treatment. The local police arrested Joel's wife, but Joel remains at large. He is reportedly a member of the Barangay Intelligence Network handled by the 15th Infantry Battalion, Philippine Army, which had publicly labelled the couple as communists and terrorists; Liezelda had been a staff member of the Gabriela Women's Party.

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VICTIMS:

1. Agnes Abelon (killed)

2. Amante Abelon Jr. (killed)

3. Amante Abelon (wounded)

INCIDENT: Killing

ALLEGED PERPETRATORS:
Unidentified gunmen

DATE: 20 March 2006

AHRC UA-107-2006

Agnes & Amante Abelon: Mother and child embrace in death

Peasant leader Amante Abelon (42), his wife Agnes (30) and their 5-year-old son Amante Jr. were attacked by armed men while riding a motorcycle on their way home on 20 March 2006. The Abelon family was passing a road from the town of Castillejos, on their way to Palayan. When they reached the unpopulated area of Sitio Mauao, Barangay San Isidro, armed men riding in a dark-colored vehicle opened fire on them. Amante was hit in different parts of his body, but he managed to run for safety while his wife and son were left behind.

Amante hid behind a tree some 70 metres away from where the shooting happened. He asked two workers at a nearby plantation for help; however, they ran away when they saw that he had been pursued by armed men.

Amante immediately phoned a friend for help. The friend rushed to his location and took him to the hospital in San Marcelino. He was later transferred to the James L. Gordon Memorial Hospital in Olongapo City and underwent surgery. He was declared in a stable condition the following day; he sustained nine gunshot wounds.

Agnes and Amante Jr.'s bodies were later found near the motorcycle, still embracing each other. They were both shot in their heads.

Tirso Cruz: Labour leader shot after church

Labour leader Tirso Cruz (33) was walking home from a church in Concepcion, Tarlac when gunmen riding on a motorcycle shot him dead on 17 March 2006. He suffered six gunshot wounds in different parts of his body.

Before the incident, Cruz had received a number of threats to his life following a 2005 protest by labourers in Hacienda Luisita. Cruz was also actively involved in protesting against the construction of the Subic-Clark-Tarlac Expressway project and the deployment of soldiers inside the hacienda. In the days prior to his death, Cruz had led union members and residents in a protest calling for the withdrawal of soldiers deployed inside the hacienda and for the expressway construction to be stopped. Residents inside the hacienda have been protesting against the quarry operations by project contractors in Barangay Asturias.

Some 50 Cafgu members and soldiers attached to the 71st Infantry Division, which was at that time under Major Gen. Jovito Palparan, were reportedly deployed in Barangay Pando, using the project management's office as their headquarters. The soldiers were allegedly being used to prevent any protest actions against the management.

Nestor Arinque: Gunned down while fixing motorcycle on roadside

On 7 March 2006 at 11:30am, Nestor Arinque (39) and his wife were buying goods at a market in Barangay San Roque, Mabini, Bohol. He waited for his wife at a store owned by Tony Salaum, who was together with two other companions, one of them was a member of Cafgu in Baragay Abaca.

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VICTIM: Tirso Cruz
INCIDENT: Killing
ALLEGED PERPETRATORS: Two unidentified gunmen
DATE: 17 March 2006

AHRC UA-101-2006

Family of Tirso Cruz



VICTIM: Nestor Arinque
INCIDENT: Killing
ALLEGED PERPETRATORS:
Two unidentified gunmen
DATE: 7 March 2006

AHRC UA-101-2006

Half an hour later, Arinque met his friend Jorge Tutor, who asked Arinque to take him home. On the way, his motorcycle's chain malfunctioned and they had to stop at Purok 1. Arinque was fixing the chain when two gunmen riding on a motorcycle stopped and one of them fired at him with a .45-calibre pistol. Arinque died on the spot.

Prior to the incident, on March 2, at around 11am, military men and Cafgu members attached to the 15th Infantry Battalion, Philippine Army stationed in Sitio Mahayag, Barangay San Roque, were seen in front of Arinque's house. When Arinque asked them why they were there, they told they were just roaming around. Some of the men were known to Arinque.

Arinque had been 'invited' by the military to appear before their detachment in Sitio Mahayag, but he had repeatedly refused. He had also refused to heed their warnings against working for peasants' rights and as a result was allegedly included in their Order of Battle lists.

VICTIMS:
1. Arturo Caloza (killed)
2. Geronimo Pablo
(wounded)
3. Ursula Tabelin (wounded)
INCIDENT: Killing
ALLEGED PERPETRATOR:
Unidentified gunman
DATE: 4 March 2006

AHRC UA-099-2006

Arturo Caloza: Killed at a funeral

At around 9pm on 4 March 2006, Arturo Caloza (28), a member of the Bayan Muna (People First) party, told his wife Julita that he was going to the wake of a neighbor. Before leaving, he told her to close the door and that he would be back soon. He went to the wake together with his father-in-law Clemente Somera and uncle, Dionisio Caloza.

After arriving they sat at a table to play cards. About 10:30pm, a man suddenly approached and shot Caloza, who fell to the ground from his chair. When he tried to look up at the gunman, he was shot again; this time in his chest. Stray bullets hit two persons, Ursula Tabelin (65) and Geronimo Pablo (45).

Everyone fled the crime scene and no one dared to go back or take Caloza to hospital until almost two hours later, when Luis Cariaga, a villager, took him to the Heart of Jesus Hospital at Malasin, San Jose City. Caloza was dead on arrival.

Although a unit of soldiers was stationed just 60 metres from the crime scene, they reportedly did not respond to the gunfire or attempt to pursue the attacker. They also did nothing for the victims of the shooting.

Prior to the incident, on January 21 and 30, soldiers attached to the 48th and 70th Infantry Battalions, Philippine Army, reportedly conducted surveys of Barangay Villa Marina. On January 23, they converted the Barangay Hall into a military detachment. The villagers were not properly notified regarding the purpose of their stay and how long they would be stationed in the area. The soldiers also had been conducting interviews among the villagers. When they interviewed the victim's wife Julita prior to her husband's killing they reportedly accused her husband of being a communist rebel.

Melanio Evangelista: Murdered in bed

On 17 February 2006 at around 11:45pm, Melanio Evangelista (43) was asleep at home at Purok Brotherhood, Barangay Unidad, Cagwait, Surigao del Sur. His wife Nora heard voices from outside their house calling the name of her husband, requesting him to go outside. Nora told them that Melanio was already in bed. She then heard noises from the back of the house, and immediately went to where her husband was sleeping. She saw a man covering his face with a handkerchief shooting at Melanio. He then immediately went outside and rode away on a waiting motorcycle. Melanio died from a shot to the left side of his head, the bullet also entering the right side of his neck and exiting from his right shoulder.

Melanio was a peasant leader of the Kapunungan sa mga Mag-uuma sa Surigao Sur (Organization of Peasants in Surigao Sur). He and his wife Nora were constant participants in its activities in their municipality.

A few weeks before the killing they saw a motorcycle-riding man destroying and burning their organisation's posters. There were also rumors that the 58th Infantry Battalion of the Philippine Army had said that it would "break up" the group. Nora also noticed motorcycle-riding men constantly passing and seemingly observing them near their house. She believed the men to be military intelligence. Although slightly alarmed, she and her family had not paid much attention as they had had no enemies.

Allan Ibasan & Dante Salgado:

Taken away from bamboo plantation and shot

Allan Ibasan (18) and Dante Salgado (17) were allegedly killed by military agents after their arrest on 31 January 2006. Allan and Dante were workers of a bamboo plantation. They were preparing for their breakfast while seven of their companions started the work of cutting bamboo. A few minutes after Allan and Dante left to buy more ingredients for breakfast, a loud burst of gunfire was heard some distance away. The other labourers then ran to their employer's house for safety.

Earlier that morning the labourers had been woken by a loud burst of gunfire. A fight was said to have taken place between government troops and the New People's Army in Pansagwan Valley, Barangay Sta. Ines West, Sta. Ignacia, Tarlac between 3 and 4am that day. So the group decided to stay at the house until noon. While they were all inside, a group of heavily-armed military men, believed to be attached to the 71st Infantry Battalion, arrived. They yelled at those inside the house to come out.

The labourers stepped outside the house. They saw four soldiers pointing guns at them wearing, one with the name "Canlas" on his shirt. The soldiers asked if they had lost any companions. Glen then told them that his brother Allan and uncle Dante were

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VICTIM: Melanio Evangelista
INCIDENT: Killing
ALLEGED PERPETRATOR:
Unidentified gunman
DATE: 17 February 2006

AHRC UA-072-2006

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VICTIMS:
1. Allan Ibasan
2. Dante Salgado
INCIDENT: Killing
ALLEGED PERPETRATORS:
Four 71st IB personnel led
by an officer named Canlas
DATE: 31 January 2006

AHRC UA-083-2006

not with them. The soldiers then produced Allan, who appeared to be haggard, tired and unkempt. Glen urged the soldiers to release his brother. The troops, however, ignored his request.

Glen then went to ask his employer, Arsenio Asuncion, to affirm his brother's identity, but the soldiers had already left when they arrived back.

Glen and his companions went to the house of a Barangay Council member, Granil, to seek refuge. While Granil's wife was preparing lunch, Glen saw a tank with about 20-30 soldiers arriving nearby. Glen and his companions immediately left and ran to a friend's house to stay overnight.

At around 7am on February 1, Glen was informed that his brother was already dead and the body was at the Funeraria Corpuz funeral home. When the family went, they found that Allan was half-naked and his body had suffered multiple gunshot wounds. Dante's body was also later identified in the same funeral home by his relatives, also with gunshot wounds to his chest and marks on some parts of his body.

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VICTIM: Mateo Morales
INCIDENT: Killing
ALLEGED PERPETRATORS:
Cafgu personnel attached to
the 29th IB, commanded by
Lt. Col. Taboga
DATE: 24 January 2006

AHRC UA-057-2006

Mateo Morales:

Death follows series of attacks and threats

Mateo Morales, a staff member of the Religious of the Good Shepherd (RGS) – Tribal Filipino Ministry, was killed in his house in San Luis, Agusan del Sur, Mindanao on 24 January 2006. Morales suffered a fatal gunshot wound to his chest and died on his way to hospital. Although the perpetrator has not been identified, there are indications that he may have connections with the civilian militia unit Cafgu, attached to the 29th Infantry Battalion of the Philippine Army, which is operating in the area.

Days after Morales' shooting, four to six unidentified armed Cafgu were seen close to the victim's house, during his wake. On January 26, two unidentified armed men also tried to enter a house where Morales' colleagues were staying, but they failed. Morales' wife Aileen believes that the Cafgu could be involved in his death.

A reliable source said the result of the investigation made by San Luis Municipal Station head Police Senior Inspector Nilo Teodoro Texon into Morales' case was not impartial and has failed to reach any conclusive findings. Texon did not include the testimonies of the victim's family, and ignored incidents prior to Morales' death which indicated the possible involvement of Cafgu.

The RGS ministry has been vocal in denouncing alleged human rights violations perpetrated by Cafgu members and the military in tribal communities. There had been several earlier incidents of violence allegedly perpetrated by Cafgu against villagers associated with the ministry.

On 17 November 2005, unidentified armed men attempted to break into one of the houses of the ministry's community leader while he was sleeping. Next day, there were combat boots prints

found surrounding the house. That evening, the armed men returned and were able to gain entry into the house but the leader had already fled.

On 24 November 2005, a motorcycle driver associated with the ministry was shot by a Cafgu member. On 9 December 2005, another Cafgu member publicly threatened a community leader that he would be killed if he continued his work with the ministry. Again on 22 January 2006, a Cafgu member pointed his gun at a civilian because he was somehow connected to the religious sisters managing the ministry. Had it not been for the intervention of a bystander he would not have been freed.

Ofelia Rodriguez:

“I was only there to look after my sick mother”

At around 5.30-6pm on 6 January 2006, Ofelia Rodriguez and her family had just finished dinner in their house in Barangay Divisoria, Mexico, Pampanga, Luzon. Rodriguez was carrying her granddaughter Eliza. She was about to serve her ailing mother a glass of water when a gunman came to their house and shot her in the head. Rodriguez died on the spot.

Rodriguez’s granddaughter Michelle heard the gunshot. She was at the back of their house together with her younger brother. She saw a tall, stocky man wearing civilian clothes and a baseball cap, leave the house and calmly walk towards another companion outside. The two left together on a motorcycle.

Earlier that day, Michelle said her grandmother had told her that she had seen a man standing near a tree outside their house. A neighbour had likewise come that day and told Rodriguez that there was a man looking for her. The man was reportedly carrying a gun. However, he was unable to warn her that the man was armed, because he was in a hurry and was frightened.

Rodriguez was a member of the Divisoria Farmers Association. Prior to the incident, her family had been constantly harassed and threatened by 2nd Lt. John Paul Nicolas, head of the 69th Infantry Battalion, Philippine Army and his men.

During a convenors’ meeting in Quezon City on 25 October 2005, Rodriguez testified that she had been invited to a military camp for questioning. She claimed that 2nd Lt. John Paul Nicolas forced her to admit that she was a top-ranking leader of the New People’s Army. On another occasion, her daughter confronted Nicolas regarding this threat to murder her mother. According to her:

They invited me to go to the camp, I thought it was for some other reason, but when I arrived there, they told me, “Admit it, we already know all important events happening in the town of Mexico, you alone know. All those we have asked from your town have high regard for you.” I wasn’t doing anything. I was only there to look after my sick mother.

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VICTIM: Ofelia Rodriguez
INCIDENT: Killing
ALLEGED PERPETRATORS:
69th IB personnel,
commanded by 2nd Lt. John
Paul Nicolas,
DATE: 16 January 2006

AHRC UA-031-2006

“we thought the killings and human rights violations were gone with Marcos—how disappointing to learn that all is not well, again! Stop the killings! NOW!”

*—Don Mullan,
Ireland*

After the meeting in Quezon City, harassment and threats against Rodriguez and her family allegedly intensified. On one occasion, a neighbour reportedly approached Rodriguez and said to her that Nicolas had approached him, gave him a gun and ordered him to murder her, but he refused.

Barangay Divisoria is one of the villages where the military has their Reengineered Special Operations Team, a counter-insurgency programme which includes deployment of military men to “integrate” themselves into communities.

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VICTIM: Audie Lucero
INCIDENT: Killing
ALLEGED PERPETRATORS:
Balanga & Lubao police,
Bataan; 24th or 64th IB
personnel
DATE: 12/13 January 2006

AHRC UA-078-2006



PHOTO: KPD

Audie Lucero: Abducted from hospital

Audie Lucero (19) was found dead in Barangay Capitangan, Abucay, Bataan on 13 February 2006 after meeting with policemen and military men the day before.

On February 12, Lucero visited his friend confined at the Immaculate Catalina Medical Center in Balanga, Bataan. While there, seven uniformed policemen introduced themselves to him as members of the Balanga Police Station. They questioned Lucero about his relationship with the friend whom he was visiting, who had been accused by the police and military of being a rebel.

When policemen left, another group from Lubao Police Station arrived, accompanied by military men believed to be connected with either the 24th or 64th Infantry Battalion of the Philippine Army. They also began talking to Lucero. After that he went missing and was found dead the next day nearby the hospital with fatal gunshot wounds to his back, knee and left hand, and his body had traces of torture marks.

Lucero was a member of the Youth for Nationalism and Democracy-Bataan, the youth arm of the political organisation Kilusan para sa Pambansang Demokrasya.

In a letter to the AHRC dated 15 November 2006, the National Police Commission accused Lucero of being a member of the Marxist Leninist Party of the Philippines who was involved in an armed encounter with elements of 24th IB. However, the letter did not give any information about the investigation of Lucero's death.

Cathy Alcantara: Shot dead at farmers' conference

The secretary general of the Bataan chapter of the national political organisation Kilusan para sa Pambansang Demokrasya (KPD), Cathy Alcantara (44) was killed by unidentified armed men while participating in a conference of farmers from across Luzon at a resort in Barangay Gabon, Abucay, Bataan, Luzon on 5 December 2005. She was declared dead on arrival at the Bataan Provincial Hospital.

KPD members had reported threats against them and their colleagues prior to the killing of Alcantara, who was among those threatened. KPD organisers had on several occasions been monitored upon by unknown armed men, who had one time also asked about the whereabouts of their colleagues.

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VICTIM: Cathy Alcantara
INCIDENT: Killing
ALLEGED PERPETRATORS:
Unidentified gunmen
DATE: 5 December 2005

AHRC UP-160-2005



PHOTO: KPD

Jose Manegdeg: Same job, new victim

Jose “Pepe” Manegdeg III of Pagudpud, Ilocos Norte was slain on 28 November 2005 after participating in a Paralegal Training Seminar at the Ursa Major Resort, sponsored by the Ilocos Human Rights Alliance-Karapatan. Manegdeg left the venue that evening by hired tricycle to take a bus to Manila, where was to meet his wife who was arriving from Hong Kong the following day.

As Manegdeg alighted from a tricycle at a bus stop on the highway, a gunman emerged from a van, approached him and shot him repeatedly. The tricycle driver sped off for fear of his own life, but returned to where he had picked up Manegdeg to inform his companions of what had happened.

Manegdeg’s colleagues immediately contacted the police, and went to the scene of the killing. They found Manegdeg’s body approximately 15 metres from the waiting shed. His bag, cell phone and other belongings were missing. The body was found to have 22 bullet wounds from a .45-calibre pistol.

Manegdeg was a Bayan Muna party coordinator in Ilocos province. His predecessor, Romeo Sanchez was also killed, on 9 March 2005 in Baguio City, Luzon (case documented below). Manegdeg was the former coordinator of the Regional Ecumenical Council in the Cordillera Region (Reccord) and editorial staff of “Writing on the Wall”, the official publication of the Northern Luzon Forum for Church and Society.

Prior to his death Manegdeg was reported to have been monitored and was receiving calls and text messages on his mobile phone. He also received written threats on his life.

In a letter dated 23 January 2006, Secretary Raul Gonzalez of the Department of Justice wrote to the AHRC that he had instructed the National Bureau of Investigation under his department to commence an investigation into Manegdeg’s murder. He said that the NBI had also been advised to submit its findings and recommendations as soon as practicable.

Emmylou Buñi-Cruz & Daniel Brylle: Attacked near beach resort

On 25 November 2005 at around 4pm, Emmylou Buñi-Cruz (25) and her husband Daniel Brylle (34) finished a human rights seminar at Sitio Punta, Barangay 8, Tuburan, Cebu, about seven kilometers from the town centre. Emmylou is a staff member of the human rights group Karapatan in Central Visayas, while Daniel is an organiser of the Bayan Muna party in Cebu. The seminar was part of preparations International Human Rights Day on December 10. They were also monitoring the situation of evacuees returning after fighting between the military and rebels on 15 October 2005.

On their way back they walked along the same road as when they had come, passing by a resort house owned by Tuburan Councillor Roy Tabotabo, where five soldiers attached to the 78th Infantry Battalion had been staying since October 24. As they

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VICTIM: Jose Manegdeg
INCIDENT: Killing
ALLEGED PERPETRATORS:
Unidentified gunmen
DATE: 28 November 2005

AHRC UP-158-2005

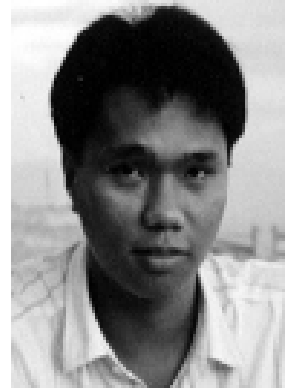


PHOTO: Stop the killings

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VICTIMS:
1. Emmylou Buñi-Cruz
2. Daniel Brylle
INCIDENT: Attempted killing
ALLEGED PERPETRATORS:
Three 78th IB intelligence
personnel, commanded by
Lt. Col. Jessie Alvarez
DATE: 25 November 2005

AHRC UP-146-2005

**“I am
appalled at
what is
happening in
our country”**

—*Fr. Joseph Echano,
Paranaque*

came close to the national highway, two motorcycles passed. There were two persons on the first motorcycle, while the second motorcycle had only its driver. The first motorcycle then turned around in the direction of the victims, while the other continued on and parked 20 metres further ahead.

As the first motorcycle came close to the couple, Daniel noticed that the rider had positioned his right arm in an angle that seemed to be pulling out something. Daniel also noticed that the driver was covering his face with a handkerchief. Then he saw the pillion pointing a pistol towards him and Emmylou. He tried to get out of the way, pulling Emmylou with him, but she was hit by a bullet on the right side of her chest, with it exiting just below her right armpit.

Daniel immediately pulled Emmylou back into a house in the direction from where they had come and asked for help from residents there who were watching a basketball match. The residents accompanied the two victims along the coast and out onto the highway where they boarded a passenger motorcycle and headed for a hospital.

At about 10pm Emmylou was taken by an ambulance to the Vicente Sotto Memorial Medical Center in Cebu City, accompanied by her colleagues from Karapatan-Cebu North Area. The Municipal Mayor of Tuburan also sent four police escorts from the Regional Mobile Group, led by P03 Raul Janetro. Emmylou survived the attack.

Investigations revealed that the three attackers may have been members of the 78th IB staying on the street. Within hours of the incident, the soldiers are reported to have fled from the area, together with Ritchel Buhawi, a caretaker at the house. However, the chief of the Tuburan police, Inspector Crisanto Duque, reportedly showed little effort to pursue them, and did not summon Buhawi for questioning over the identities of the soldiers. Nor did he summon Councillor Tabotabo, who may have been able to assist the investigations. Inspector Duque also rejected the victims' request to attempt to do sketches of the attackers.

Bernabe Borra & others:

Victims of murderous and senseless military attack

At about 5am on 21 November 2005, farmers belonging to the San Agustin Farmer Beneficiaries Association together with members of the Bayan Muna party and farmers from a number of villages and other associations had gathered with the intention to occupy 12 hectares of rice fields in Palo, Leyte, about 16km from Tacloban City, which had been awarded them by the Department of Agrarian Reform under the Comprehensive Agrarian Reform Program. Altogether there were at least 46 persons there, some 500 metres from the barangay proper.

Some of the farmers were already awake and cooking food when several armed men in balaclavas suddenly appeared and opened fire, also shooting several grenades. Five people died on

the spot. Those who were seriously wounded by gunshot and shrapnel were taken to the Eastern Visayas Regional Medical Center. Two of them died while being treated. One victim, Alma Bartoline, was seven-months-pregnant when she was killed. Two others—Antonio Margallo (16) and Eduardo Margallo (24)—were lightly wounded and taken in by a village leader in Barangay Can-gumbang.

Subsequently eight of the group were arrested and detained at the Palo Police Station. Fabricated charges for illegal possession of firearms and ammunitions were filed against them, and the military accused the people of being members of a rebel group.

Among them, Joselito Tobe, the secretary-general of the Concerned Citizen's for Justice and Peace in Metro Tacloban and a Bayan Muna member residing in Barangay Cabuynan, Tanauan, Leyte, died in custody on 12 July 2006, reportedly due to food poisoning. Two weeks earlier, he and his fellow detainee, Arnel Dizon, had received death threats while in the prison.

In an interview with local reporters, Colonel Louie Dagoy, commanding officer of the 19th Infantry Battalion, claimed that the incident was an encounter. The survivors strongly deny the military's claim and have said that the military opened fire without any warning. Their claims were substantiated by an independent investigation by the Citizens Anti-Crime Assistance Group, which concluded that the victims were deliberately attacked and were unarmed.

On 17 February 2006, the regional office of the Commission on Human Rights (CHR VIII) filed complaints against the military men involved in the killing before the Office of the Deputy Ombudsman for the Military and Other Law Enforcement Office. The commission filed charges of multiple murder and frustrated murder and requested "for the institution of appropriate cases against the respondents".

Although the commission recommended prosecuting the military men involved, the Office of the Deputy Ombudsman for the Military and Other Law Enforcement Office delayed acting on its recommendations. Under existing procedures, the ombudsman has to reexamine the findings made by the commission before a case proceeds to court. Repeated follow-up inquiries by the commission did not result in any progress. Late in 2006 charges of multiple murder and frustrated murder were filed with the Office of the Provincial Prosecutor, Leyte, against 12 military men, a police officer and 13 others.

In a letter dated 16 May 2006 Paquito Nacino, CHR VIII regional director, assured the AHRC that his office is "closely monitoring" the case and has "recommended financial assistance to the next heirs of the deceased as well as to the surviving victims". Nacino added that the Integrated Bar of the Philippines had pledged to provide legal assistance to the victims, who are poor and unprivileged and were still facing fabricated charges for illegal assembly and possession of firearms.

VICTIMS:

1. Bernabe Borra Jr y Barbosa (killed)
2. Eric Nogal y Selada (killed)
3. Roel Obijas y Lacaba (killed)
4. Perlito Borra (killed)
5. Gerry Almerino (killed)
6. Eufemia Borra y Barbosa (killed)
7. Alma Bartoline (pregnant) (killed)
8. Mark Pansa/Monsa (killed)
9. Romy Cumpio (wounded)
10. Ferdinand Montanejos (wounded)
11. Bernabe Borra Sr. (wounded)
12. Ranilo Orseda (wounded)
13. Berlito Barbosa y Borra (wounded)
14. Ismael Regato (wounded)
15. Cora Bernabe (wounded)
16. Richard Cornesta y Margallo (wounded)
17. Christopher Bayase (wounded)
18. Ariel Timbo Capatoy (wounded)
19. Antonio Margallo (wounded)
20. Eduardo Margallo (wounded)
21. Several others wounded
22. Marivic Macawile (illegally arrested)
23. Joselito Tobe (illegally arrested; custodial death)
24. Arnel Dizon y Margallo (illegally arrested)
25. Mariel Obijas y Dizon (illegally arrested)
26. Eulogio Pilapil (illegally arrested)
27. Artemio Amante (illegally arrested)
28. Baltazar Mardo (illegally arrested)
29. Bernardo Lantajo (illegally arrested)

INCIDENTS:

Killing; illegal arrest

ALLEGED PERPETRATORS:
19th IB personnel (802nd Infantry Brigade) led by Lt. Benedicto, commanded by Col. Louie Dagoy
DATE: 21 November 2005

AHRC UA-216-2005
 UP-141-2005
 UP-019-2006
 UP-222-2006



PHOTO: PCPR

Joselito Tobe before his
death in custody

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VICTIM: Victoria Samonte
INCIDENT: Killing
ALLEGED PERPETRATORS:
Unidentified man
DATE: 30 September 2005

AHRC FA-029-2005

On 17 November 2006, Judge Mario Nicolasaro of the Palo Municipal Trial Court acquitted the eight respondents over illegal possession of firearms and ammunitions; however, the charge of illegal assembly has not been resolved. The seven surviving respondents posted bail and were released from Leyte Provincial Jail.

Victoria Samonte: Stabbed by fellow passenger

Victoria “Vicky” Samonte (51), the regional vice-chair of a leading labour alliance (Kilusang Mayo Uno-Caraga), was stabbed to death by an unidentified man in Bislig City, Mindanao in the evening of 30 September 2005.

At about 9:40pm, Samonte hired a motorcycle to go home to Barangay Mancarogo from Andres Soriano College in Barangay Mangagoy. She was with her neighbor and co-teacher, Mansueta “Sweet” Sanchez.

About 100 metres away from the school, a man wearing a hat and a sweatshirt flagged down the motorcycle. The driver refused because he had been already rented by the two ladies, but Samonte, who was sitting alone in the front seat, asked the man where he was going, to which he responded Barangay Cumawas. Since it was not out of the way from where the two women were heading, she let the man ride with them.

The man sat beside Sanchez on the back of the motorcycle, although she requested him to transfer and sit on the other side.

When they reached Barangay Cumawas, Samonte asked the man they should drop him off. The man replied “further ahead”. When they reached Barangay Mancarogo, she asked again and he repeated his previous reply. This time she requested the driver to take the man to wherever his destination was first.

Upon reaching a dimly-lit part of the highway, about 100 metres away from the crossing to Samonte’s residence the man finally stopped the driver, paid his fare and walked towards Bislig City. Witnesses at a waiting shed nearby later said they saw the man running towards a single motorcycle waiting for him about 70 metres ahead.

Meanwhile, back on the motorcycle Samonte had been stabbed in her back: she asked Sanchez to take a look, and in the darkness, when Sanchez ran her hand over her friend’s back she felt something stuck in it. She pulled out a knife and told the driver to go back to the nearest hospital, at Mangagoy. However, Samonte was declared dead on arrival.

I can’t believe this!

—Seo Jeong Seong, South Korea

Diosdado Fortuna: “Is there anybody dead here?”

On 22 September 2005, at around 8am labour leader Diosdado Fortuna arrived at the compound of the Nestle Philippines-Cabuyao Plant in Barangay Niugan, Cabuyao, Laguna, where workers were on strike. Afterwards he went to the office of the Organised Labour in Line Industries and Agriculture located at the Shine Land Subdivision in Cabuyao for a meeting. He arrived at around 9am.

Around midday, two men in their 30s in an old maroon Toyota Corolla stopped in front of the office, sounded their horn and lowered a window. One of the men, who both had short-cropped hair, white t-shirts and muscular builds, asked the union president, “Is there anybody dead here?” Fortuna, who was then presiding over the meeting, stood up and looked out to the gate. Hermie, the president, told them, “Nobody died here.” The car then sped off towards the exit of the subdivision.

Fortuna left in the afternoon and went back to the Nestle picket line, where he met several students from the University of Sto. Tomas and stayed until around 4:30pm. He then received a text message from his wife, Luzviminda, informing him that their grandson was ill and needed to be taken to hospital. Fortuna told a colleague that he would leave and come back later.

During that time, an unidentified man was seen sitting on a chair in front of a store inside the compound near the picket line. He was seated directly in front of the entrance of the picket line. When he was asked by a store attendant “Are you buying something?” the man, who was writing text messages on his mobile, stopped and placed his phone in his pocket. He stayed there for about 15 minutes and hurriedly left just ahead of Fortuna, who boarded his motorbike to go home.

Around 5:20pm, two men wearing helmets were seen shooting Fortuna twice in his back outside the Sagara Factory. They sped off on board a motorcycle heading towards Rodriguez Subdivision. Another motorcycle came and stopped alongside Fortuna, who was lying on the ground wounded.

A tricycle driver took Fortuna to the Calamba Doctors Hospital but he died an hour later of wounds to his heart and liver.

Norman Bocar: Another human rights lawyer...

On the morning of 1 September 2005, human rights lawyer Norman Bocar was shot dead by two unidentified gunmen on a motorcycle in Borongan, Eastern Samar, Visayas. Bocar was coming out from a meeting when he was shot in the head.

Bocar was the regional chairman of umbrella group Bayan. He had sought help from the police for his security, after serious threats against his life; however, he received no protection.

The police investigation into his death reached no conclusive findings and the perpetrators were not identified. The police formed a special task force to investigate the killing but this too has failed to resolve the case.

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VICTIM: Diosdado Fortuna
INCIDENT: Killing
ALLEGED PERPETRATORS:
Two unidentified gunmen
DATE: 22 September 2005

AHRC FA-027-2005
UP-009-2006

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VICTIM: Norman Bocar
INCIDENT: Killing
ALLEGED PERPETRATORS:
Two unidentified gunmen
DATE: 1 September 2005

AHRC UP-106-2005



PHOTO: PCPR

VICTIM: Raul Domingo
INCIDENT: Killing
ALLEGED PERPETRATOR:
Unknown
DATE: 20 August 2005

AHRC UP-106-2005

Rev. Raul Domingo: Church worker and human rights defender slain

Rev. Raul Domingo was shot in Barangay San Jose, Puerto Prinsesa City, Palawan on 20 August 2006 and he died in a Manila hospital on September 4.

Rev. Domingo was a dedicated pastor of the United Church of the Philippines. As key minister of the Palawan Associate Conference- District II, he was active in the life of the church especially in the Church Workers Organization and Christian Witness and Service program of the UCCP. He had also denounced military abuses and large-scale mining in his region. He had been harassed and under threats for several years. He served as a dedicated leader of the provincial chapter of human rights alliance Karapatan, Kasimbayan and the multi-sectoral alliance Bagong Alyansang Makabayan.

VICTIMS:
1. Edison Lapuz
2. Alfredo Malinao
INCIDENT: Killing
ALLEGED PERPETRATORS:
Unidentified military
personnel
DATE: 12 May 2005

AHRC UP-059-2005
 UP-061-2005

Rev. Edison Lapuz & Alfredo Malinao: Two deaths at a funeral

On 12 May 2005 around 5:30pm, Rev. Edison Lapuz and Alfredo Malinao were shot dead by unidentified gunmen while conducting funeral rites for Malinao's father-in-law in San Isidro, Leyte.

Rev. Lapuz had been very vocal against the killings and harassment of activists in his region, and was the convenor of the "Justice for Atty. Felidito Dacut Alliance" (see case details below). He had consistently supported human rights victims and their families.

Some military personnel had reportedly been closely monitoring Rev. Lapuz prior to his death, and his name had also reportedly been included in its Order of Battle. His photo had also been seen posted at the camp of the local Regional Mobile Group special police unit.

In a letter dated 30 May 2005 to the AHRC, Paquito Nacino, regional director for the Commission on Human Rights, stated that the relatives of both Malinao and Lapuz had either not cooperated with inquiries or had asked for more time to provide statements, apparently out of fear for their own lives.

Felidito Dacut: Shot in the back for fighting for the rights of others

On 14 March 2005, lawyer Felidito Dacut was shot dead by two unidentified gunmen after a consultation meeting at the Bayan Muna party's regional headquarters at Yao-Ka-Sin Compound, Old Road, Sagkahan District, Tacloban City.



PHOTO: Arkibongbayan

Dacut and a companion were on their way downtown aboard a passenger vehicle at about 6:45pm when he was shot in the back by one of two men riding on a motorcycle that was apparently tailing them. Dacut's companion shouted for help. Dacut was immediately rushed to the nearby UCCP Bethany Hospital but he died later while undergoing treatment for a single fatal wound. Members of Tacloban Philippine National Police later arrived at the Bethany Hospital where they conducted an investigation.

Prior to his death, Dacut had provided legal services and handled the cases of poor people free of charge, which often involved alleged human rights abuses. He was the regional coordinator of the Bayan Muna party and a member of the Integrated Bar of the Philippines.

His colleagues believe that Dacut's death was a move to silence or discourage human rights activists from campaigning against the recent assignment of now retired Maj. Gen. Jovito S. Palparan Jr. as commander of the 8th Infantry Division in Eastern Visayas.

Romeo Sanchez: Killed in marketplace

On 9 March 2005, Romeo "Romy" Sanchez (39), the regional coordinator of the Bayan Muna party for Ilocos Region was shot dead by unidentified gunmen at around 4:30pm along 3rd Kayang Street in Baguio City, while he was buying used clothing in a market with two officemates, Abraham Austin and Beth Alfiler. The three had just finished shopping and were on their way to a consultation when Austin and Alfier, who were walking ahead of Sanchez, heard gunfire. When they turned around they saw him on the ground. An autopsy report later showed Sanchez died from a single bullet to his head.

Two policemen arrived and investigated the crime scene. More policemen from Baguio City Police arrived and likewise conducted investigations.

On 8 May 2000, Sanchez and one colleague had been arrested by elements of the Intelligence Services of the Armed Forces of the Philippines in Binangonan, Rizal on suspicion of being involved in the killing of a rebel priest. They were allegedly tortured while in custody. After his release on July 19 of the same year, Sanchez had been harassed and threatened by persons believed to be from the military.

His successor in the Bayan Muna party post, Jose Manegdeg, was also killed later in the year (see above).

VICTIM: Felidito Dacut
INCIDENT: Killing
ALLEGED PERPETRATORS:
Two unidentified gunmen
DATE: 14 March 2005

AHRC UP-029-2005



PHOTO: PCPR

VICTIM: Romeo Sanchez
INCIDENT: Killing
ALLEGED PERPETRATOR:
Unidentified gunmen
DATE: 9 March 2005

AHRC UP-029-2005



PHOTO: Stop the killings

“ Each person has equal rights for LIFE and LIVING in this world. Kindly bring JUSTICE for those who are killed ”

—Theresa Wong, Manila

VICTIM: Abelardo Ladera
INCIDENT: Killing
ALLEGED PERPETRATORS:
Unidentified military
personnel
DATE: 4 March 2005

AHRC UA-034-2005



PHOTO: Stop the killings

Abelardo Ladera: Another victim of the Hacienda Luisita

Abelardo R. Ladera (43) was the City Councilor of Tarlac, Luzon and a provincial chapter leader of the Bayan Muna party who was shot dead by unidentified attackers at around 1pm on 4 March 2005 while on his way home along the McArthur Highway in Barangay Paraiso, Tarlac City. He was hit by a bullet in his upper left chest which pierced his heart. His driver Edwin Arocena took him to hospital, but Ladera was declared dead on arrival.

The identity of his attackers remains unknown. However, it is alleged that the Northern Luzon Command (NolCom) of the Armed Forces of the Philippines had a hand in his killing after he was falsely branded as a contact person of the Communist Party of the Philippines and New People's Army in Hacienda Luisita by NolCom agents during a security briefing at NolCom headquarters, Camp Aquino, Tarlac on 22 January 2005. He was again labelled as a communist at a NolCom briefing to the Association of Barangay Captains in Tarlac City.

Ladera had been mediating between farm workers and the Cojuanco family, owner of the Central Azucarera de Tarlac, to settle a land dispute before and after the violent dispersal of the Hacienda Luisita workers on 16 November 2004 that left seven persons dead. However there was no positive response from the Cojuanco family. Ladera, the provincial leader of Bayan Muna, was very vocal in condemning the military and police actions against the farm workers, and may have been killed for this reason, among others.

In July 2006 the Hong Kong Mission for Human Rights & Peace in the Philippines visited Hacienda Luisita and recorded the following in its report:

The fact-finding mission travelled to Hacienda Luisita on July 26th, 2006 and met with victims' relatives and local officials. The situation in Hacienda Luisita continues to be problematic to date, but was, in 2004, the scene of one of the most infamous cases of killings in the Philippines.

On 6 November 2004, at around 12pm, some 5000 mill and farm workers from the Cantral Azucarera de Tarlac Labor Union (CATLU) and United Luisita Worker's Union (ULWU) held a protest in front of the gate of the Central Azucarera de Tarlac sugarcane plantation.

The workers are 'co-owners' of the 4915.75 hectares of land inside the Hacienda Luisita Inc. (HLI) that are classified as agricultural land. As farm-worker-beneficiaries and part of the Stock Distribution Option (SDO) scheme, they are entitled to 33.296 per cent of the SDO's outstanding capital stock, under the Comprehensive Agrarian Reform Program.

The workers protested against the measures imposed on them, which hampered their livelihood. They protested about the massive land-use conversion in the hacienda, the implementation of the "voluntary early retirement program" in 2000 by HLI and the continued reductions of working days. These measures had resulted in the laying-off of more than 1000 farm workers since 1989.

On October 1, 2004, 327 farm-workers, including nine officers of ULWU, were sacked by the HLI management. The efforts by the CATLU to collectively bargain with the management regarding their demands for wage increases and benefits drew to a stand still.

These issues prompted the protesters to stage a picket in front of the gate of the Central Azucarera de Tarlac, which started on 6 November 2005. As the tension grew, several attempts were made by the police and the military to disperse the protesters, but these failed. The protesters stood their ground until a violent confrontation between protesters and the military and police forces broke out on 16 November 2004. Seven people were killed and ten people were severely injured, while some 200 other protesters required hospitalisation.

To date, the investigations into these killings have not led to any conclusive results or any perpetrators being identified or prosecuted, despite there being a large number of persons who witnessed the attacks.

[Hong Kong Mission for Human Rights & Peace in the Philippines, "Extrajudicial killings & human rights abuses in the Philippines", *article 2*, vol. 5, no. 5, October 2006, p. 17]

Ricardo Uy:

War of words with army ends with bullets in the back

On 18 November 2005 at 11am Ricardo Uy (57), chairperson of the Bayan Muna party in Sorsogon City, was shot dead inside his Soledad Corral Uy Ricemill in Barangay Basud. Uy's assistant heard gunshots ring out and when he ran inside he saw a gunman in sunglasses and wearing a hat had shot Uy in the back. The gunman aimed at the assistant, but his gun was empty. He calmly walked to a motorcycle parked close to the rice mill and left.

At the time of his death, Uy was the radio anchor of a morning program at dzRS Sorsogon radio. He was a hard-hitting critic of the militarisation of the towns of Sorsogon and other policies of the government that he considered anti-poor.

Since 2004, the military had been vilifying Uy as a communist supporter and recruiter of the New People's Army in their own radio programmes on dzMS.

Ricardo Ramos: Yet another victim of Hacienda Luisita

On 25 October 2005 at around 3pm Ricardo Ramos arrived at a bamboo hut about 50 metres from his house, with his wife and six companions. Two soldiers attached to the 7th Infantry Division, Philippine Army, later arrived nearby. The two, Sgt. Castillo and Joshua de la Cruz were known to the villagers because they often conducted foot patrols in the area. They asked Jorge Gatus, a village security volunteer, whether they could speak with Ramos, who was president of the Central Azucarera de Tarlac Labor Union and one of the leaders of the Hacienda Luisita workers, who in November 2004 had been attacked by the police and military (see below). Gatus said that Ramos was resting. The soldiers then left.

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VICTIM: **Ricardo Uy**
INCIDENT: **Killing**
ALLEGED PERPETRATOR:
Unidentified gunman
DATE: **18 November 2005**

AHRC UP-143-2005

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VICTIM: **Ricardo Ramos**
INCIDENT: **Killing**
ALLEGED PERPETRATORS:
Unidentified gunman
DATE: **25 October 2005**

AHRC UP-143-2005

After 7pm the two soldiers came back and again asked Gatus if they could speak to Ramos, but Ramos refused to meet them. They decided to leave and told Gatus that they would return the next day.

After 9pm Ramos was together with several of his fellow workers in the hut when an unidentified man approached the hut and shot him twice from about 12 metres away. Ramos's elder brother Romy, and their brother-in-law, Benny Pineda, found Ramos lying on the ground and bleeding.

At around 10:15pm, residents who live near the local military detachment heard and saw a helicopter circling over the barrio. They also reported seeing a van leaving the detachment after Ramos's killing. When the news broke out, the outraged villagers went to protest outside the military detachment around 11pm, believing army personnel to be responsible for the death.

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VICTIMS:

1. Ernesto Bang

2. Joel Reyes

INCIDENT: Killing

ALLEGED PERPETRATORS:

Unidentified gunmen

DATE: 10 & 16 March 2005

AHRC UP-075-2005

Ernesto Bang & Joel Reyes: "No witnesses had come out in the open for fear of reprisal"

On 10 and 16 March 2005, Ernesto Bang (50) and Joel Reyes (33) were slain in separate shooting incidents in Camarines Norte, Luzon.

Bang, an information officer of Kilusang Magbubukid ng Pilipinas, a peasant organization, was shot dead on 10 March 2005 in his house in Purok 3, Barangay Malangcao in Basud. One of four armed men who arrived at his house shot him after he opened his front door to find out who was knocking.

Six days later in a nearby municipality, Reyes, a trishaw driver and organizer for the Anakpawis party, was also shot dead by one of his passengers. The suspects who posed as passengers boarded his vehicle at a public market and shot him before reaching the boundary of Barangays Callero and Nakalaya, Jose Panganiban. Reyes died on the spot from several gunshot wounds.

Policemen from the Jose Panganiban municipal police and the Scene of the Crime Operation Team officers were not able to produce witnesses or sufficient material evidence.

In a letter dated May 31 to the Asian Human Rights Commission Marcelo Ele Jr., Police Director of the Philippine National Police Directorate for Investigation and Detective Management (DIDM) said that "no witnesses had come out in the open for fear of reprisal". He added that in Bang's case even "relatives of the victim, when interviewed revealed that they are no longer interested in filing the case due to the absence of a witness who could identify the suspect". Another dated 29 July 2005 from Chief Superintendent Charlegne Alejandrino, deputy director for DIDM, added that the police could do nothing unless the witnesses "come out in the open and willingly support the prosecution of these cases".

The AHRC highlighted the case in a statement of 18 January 2006 dismissing the claims of the Philippine government to improved law enforcement:

In its 2005 Accomplishment Report released on its official website, the government of the Philippines claims to have worked “to improve the operational effectiveness of law enforcement agencies”. Exactly what this means remains unclear, as the government backs its remarks only with a handful of vague statistics that say nothing of reality and the challenges the country faces in addressing the very deep institutional problems associated with building the rule of law there.

The Asian Human Rights Commission (AHRC) is aware that most serious criminal cases in the Philippines are inadequately investigated. In most cases perpetrators are not identified, usually due to the absence of witnesses and the lack of forensic and scientific investigation techniques. Despite the Act for Witness Protection, Security and Benefit (Republic Act 6981), witnesses to acts of murder and other grave crimes in the Philippines know full well that they risk the same fate if they dare to come forward with information. While this is especially the case in the unabated killings of human rights defenders and social activists, flagrant targetted killings of ordinary criminal suspects—such as petty criminals in Davao and Cebu—are also on the rise, sometimes with the public endorsement of local officials.

Letters to the AHRC repeatedly speak to the failure of police to obtain witnesses even in crimes where the victims are killed in busy marketplaces or houses occupied by the families of victims, and to the fact that this problem is recognised but not addressed by the authorities. For instance, in one letter from 2005 Marcelo Ele Jr., Police Director of the Philippine National Police (PNP) Directorate for Investigation and Detective Management, said that no witnesses had come forward in the killings of Ernesto Bang and Joel Reyes for fear of reprisal. This is despite the fact that Bang was shot at the front door to his house with his family inside, and Reyes was shot dead in a public market. After Dario Oresca, a witness to the murder of Reyes was found, he too was killed. He had received no protection.

Even where a case is filed in court, prolonged delays cause greater and greater risks both to the witnesses and the case itself, an issue strongly adverted to in the chapter on the Philippines in the AHRC’s recently-released State of Human Rights in Ten Asian Nations—2005 report. There is little evidence that the Action Program for Judicial Reform (APJR) adopted by the Supreme Court in December 2000, which includes in its mandate the speedy processing of cases, is making much headway, and it continues to lack adequate funding from the government.

As a consequence, more and more Filipinos are taking the law into their own hands. The loss of trust and confidence in the police and judiciary among victims seeking justice, and implied approval of murders by government officials demonstrate the country’s deteriorating law and order and give little cause for surprise when people go outside the law to resolve disputes and seek vengeance.

All of this indicates the extent to which the government of the Philippines has disregarded its international obligations. In its concluding observations on the state’s compliance with the International Covenant on Civil and Political Rights of December 1, 2003, the U.N. Human Rights Committee urged that, “The State party should ensure that all allegations of torture are effectively and promptly investigated by an independent

“it’s a huge disgrace that this is still going on at this day and age—stop the killing!”

—Josephine Ho, Taiwan

authority, that those found responsible are prosecuted.” It further said that, “The State party should ensure that its legislation gives full effect to the rights recognized in the Covenant and that domestic law is harmonized”.

Despite these clear recommendations, torture is not yet a crime in the Philippines, and there has been little effort to enact an enabling law that would make it so. Similarly, the various monitoring committees and quasi-judicial bodies established ostensibly to investigate human rights violations have few powers and are generally ineffective. As a result, the recognition given to international human rights standards in Article III of the 1987 Philippine Constitution has little significance. Although an integral part of the constitutional basis of the country, in the absence of measures for implementation it has been trivialised.

In January 2005 Executive Order 404 established a Monitoring Committee on Human Rights and International Humanitarian Law. Section 2 stipulates that the Committee will work closely with the national Commission on Human Rights to investigate and monitor human rights violations in compliance with international treaty obligations. While apparently a step towards human rights protection, there is little evidence of work by the committee so far. The general public of the Philippines remains in the dark about what the committee has done, despite it being required to “provide regular updates to concerned units and agencies of the Government, as well as civil society groups and other entities”.

The making of grand claims about the improved effectiveness of law enforcement agencies will not impress anyone familiar with the real situation in the Philippines. In fact, the effect will only be to raise more doubts among the victims of crime and rights violations about the sincerity of the authorities in tackling the deep flaws in the country’s policing and judicial system. Instead of pretending that things are getting better, the government of the Philippines would obtain far greater credibility by recognising the gravity of this situation and taking determined steps to end the impunity that murderers and other serious criminals, particularly those in the police and other security forces, continue to enjoy.

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VICTIMS:

1. William Tadena (killed)

2. Carlos Barsolaso (wounded)

3. Charlie Gabriel (wounded)

INCIDENT: Killing

ALLEGED PERPETRATORS:

Two unidentified gunmen

DATE: 13 March 2005

AHRC UP-026-2005

Fr. William Tadena: Another IFI priest killed

Fr. William Tadena, a priest of the Iglesia Filipina Independiente, was shot repeatedly by two unidentified armed men riding on a red Yamaha motorcycle without registration plates while travelling by jeep towards Victoria, Tarlac, after mass at a plaza in Barangay Guevarra, La Paz, Tarlac on 13 March 2005.

Fr. Tadena died of multiple gun shot wounds to his head and torso. He was with three companions at the time: two of them, Carlos Barsolaso (38) and Charlie Gabriel (24), were wounded. Barsolaso was hit in the head and seriously injured while Gabriel was hit in his right leg. The third, Ervina Domingo (20), was unharmed.

Fr. Allan & Aileen Caparro: Shot down on highway

Fr. Allan Caparro (40) and his wife Aileen (34) were shot by unidentified motorcycle-riding gunmen at around 6:30pm on 18 February 2005 as they were returning from a three-day meeting called for by the Biliran-Leyte-Samar Diocese of the Iglesia Filipina Independiente (IFI) church.

The couple had left Padre Burgos at around 4pm and it was past 5pm when they arrived in Mahaplag, Leyte where they stopped to refuel their motorcycle at a gasoline station. While refueling, Aileen noticed three men near a red motorcycle were staring at them. One of them caught the attention of Fr. Allan, who ignored them.

After they left the gas station, the men tailed them on their bike. Fr. Caparro was maneuvering a sharp curve in the road at Barangay Tagabaca, Abuyog when he was shot in the back by one of the three. Fr. Caparro stopped the motorcycle and the gunmen continued firing at them as they passed, hitting Aileen in her stomach and thigh. The perpetrators then sped towards Dulag, Leyte.

Fr. Allan and his wife Aileen asked for help at a nearby house. They were later brought to Abuyog District Hospital and were given first-aid treatment before being transferred to St. Paul's Hospital in Tacloban City.

Aileen went under surgery to remove a bullet lodged in one of her kidneys, she had to be kept in intensive care and undergo further surgery. The bullet that hit Fr. Caparro narrowly missed his spine. The bullets were all from a .45-calibre pistol.

Fr. Caparro's involvement in human rights advocacy and his opposition to militarization and the numerous atrocities committed by the military in Northern and Western Samar, where he is based, in Barangay Sabang, Calbayog, could have been the cause for the attack. Just before the attack he had also spearheaded an alliance for protection of the environment against destructive mining operations in Samar that go hand in hand with the military presence there.

Francisco Bulane & others:

Shoot first and enjoy your victims' fish later

Three persons were killed while three others were wounded after around 50 members of the 25th Infantry Battalion of the Philippine Army strafed them on 8 February 2005 at about 6:30am in Sitio Latil, Barangay Colonsabak, Matan-ao, Davao del Sur, in Mindanao.

The three who were killed on the spot were all married brothers: Francisco (32), Padilla (29), and Prumencio Bulane (28). Another brother, Rogelio Bulane (42) was wounded along with his 16-year-old son, Ricky, and the fifth brother, Richard (31). All were farmers and members of a local indigenous group, B'laan.

According to Rogelio, on the morning of February 8 he and his son Ricky went to the river some three kilometres away from their house to catch fish and frogs. They had caught about four kilos of fish and were preparing to eat when they heard gunfire coming in their direction for no reason. The first shot hit the back of his head but did not penetrate. Then he was thrown about four meters away when an M-79 shell exploded to his rear. He also saw his son Ricky hit with bullets. He called to him to run

VICTIMS:

1. Allan Caparro

2. Aileen C. Caparro

INCIDENT: Attempted killing

ALLEGED PERPETRATORS:

Three unidentified gunmen

DATE: 18 February 2005

AHRC UA-030-2005

VICTIMS:

1. Francisco Bulane (killed)

2. Padilla Bulane (killed)

3. Prumencio Bulane (killed)

4. Richard Bulane (wounded)

5. Rogelio Bulane (wounded)

6. Ricky Bulane (wounded)

INCIDENT: Killing

ALLEGED PERPETRATORS:

Around 50 25th IB

personnel

DATE: 8 February 2005

AHRC FA-006-2005

UP-046-2005

UP-153-2006

**“ the international
community is
closely
monitoring the
situation and will
hold the
Department of
Justice
accountable for
failure to act to
prevent further loss
of life ”**

*—Joshua Goldberg,
Canada*

and get help from his brothers. After several minutes the gunfire stopped and he pretended to be dead when the soldiers came to check him.

According to Rogelio, the soldiers then cooked the fish and frogs that they had caught themselves, and he overheard somebody say, “We will charge this guy with being New People’s Army.” Another said, “We will finish him off,” but a further soldier said that he was already dead.

Sensing that the soldiers were busy eating, Rogelio slowly crawled to the riverbank to get into some grass for cover. After several minutes, the military noticed that he had disappeared and they searched the area but did not find him. They left after several minutes. Rogelio then crawled back to the place of incident so that his family could locate him.

Meanwhile, Ricky had run to get help from his uncle, Richard, who immediately left the house to rescue his brother. But Richard did not reach Rogelio, as he was met with bullets. Three of Richard’s brothers also tried to retreat when they met gunfire, but were shot dead.

At hospital it was found that Rogelio had 12 gunshot wounds, but only four bullets had penetrated: two in his back, one in his left side and one in his lower left. Ricky sustained 11 gunshot wounds, but only two bullets penetrated: one in the lower left leg and one in the left side of his body. He was brought to hospital by his grandmother. Richard was hit 13 times, but only two bullets penetrated, including one in his left shoulder, which exited from his armpit.

On 18 February 2005 the survivors of the attack, Richard, Rogelio and Ricky, were themselves charged with attempted murder at the Municipal Circuit Trial Court III in Padada-Kiblawan, Davao del Sur, after the army claimed that they were fired upon after they ambushed its troops. The case was dismissed for lack of evidence; however, the judge recommended a charge of rebellion be filed against the accused instead, which was subsequently done at Regional Trial Court 20 in Digos City. On 21 March 2006 the judge presiding over the pre-trial hearings on the charge of rebellion ordered the prosecutor to have the case reinvestigated, and on March 31 the prosecutor recommended that this charge also be dropped for lack of evidence. On April 24 the judge finally ordered the case dismissed.

Meanwhile, on 7 March 2005 charges were filed with the public prosecutor in Digos City against two lieutenants and several others attached to the 25th Infantry Battalion. The prosecutor finished work on the case on May 21 and forwarded the case file to the office of the Ombudsman for Military and Other Law Enforcement Office in Mindanao on June 15. On July 19, that office forwarded the file to the ombudsman’s headquarters in Quezon City. Since that time the case has been inactive.

It has also been learned that although the regional office of the Commission on Human Rights (CHR XI) in Davao City has investigated and decided against the version of events told by the army, it has refused to furnish copies of its findings to the victims; nor has it assisted in matters of compensation or rehabilitation for the victims and their families, despite repeated requests. It had earlier assured parties concerned with the case that it would recommend that financial assistance be given and the alleged perpetrators be prosecuted.

Bacar & Carmen Japalali: A lesson in military impunity

On the morning of 8 September 2004, Bacar Japalali and his wife Carmen were sleeping inside their house in Barangay Bincungan, Tagum City while their neighbours Ladia and Padama were in an adjacent house. When Ladia went outside to the toilet he saw soldiers carrying firearms surrounding their house as well as that of Bacar.

Ladia rushed back inside and immediately dropped to the floor for safety. The military opened fire on the two houses. According to Ladia and Padama the gunfire lasted for ten minutes.

Bacar was killed on the spot. His wife Carmen, who was 3-months pregnant at the time, managed to get out of the house and seek help. Ladia rushed her to the mission hospital in Tagum City, but she died while being treated.

On September 10, Bacar's brother Talib filed charges against Sergeant Serafin Jerry Napoles and his 31 subordinates from the 404th Infantry Battalion, Philippine Army, with the prosecutor in Tagum City. On September 29, the Provincial Crime Laboratory office released the result of a paraffin test that stated that there were no gunpowder burns on Bacar.

Talib and Rodolfo Baluyo, Carmen's father, then lodged an affidavit and complaint with the Commission on Human Rights in Davao City. However, after six months the commission had still not taken any action.

On 17 December 2004, Prosecutor Francisco Rivero sent his resolution and records of the case to the Ombudsman for Military and Other Law Enforcement Office for review, recommendation and approval. But the issue of an arrest warrant was delayed in the Regional Trial Court. On 10 February 2005 it was learned from the Office of the Clerk of Court that the case folder had only just been given to Judge Justino G. Aventurado for his review and study a day before. On March 3, Talib went to the office of Judge Aventurado to follow up on whether warrants for arrest had been issued. He was told by the officer-in-charge that the case folder was still with Judge Aventurado. On March 8 and 15, similar explanations were given to the victims' family and staff of Task Force Detainees of the Philippines. Finally, on March 20 Judge Aventurado issued an order to the prosecution office to submit additional evidence in accordance with Section 6 of Rule 112 of the Rules of Court.

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VICTIMS:

- 1. Bacar Japalali**
- 2. Carmen Japalali (pregnant)**

INCIDENT: Killing

ALLEGED PERPETRATORS:

Sgt. Serafin Jerry Napoles and 31 other 404th IB personnel

DATE: 8 September 2004

AHRC UA-072-2005

UP-130-2006

UP-211-2006

“the whole world is watching what is going on in the Philippines”

*—Wan Hoi-wing,
Hong Kong*

On May 11 the charge of murder was reduced to homicide on a directive from Judge Aventurado. The prosecution sent the directive to the ombudsman for comment, and it was approved by the ombudsman. This decision and other circumstances have led persons siding with the victims to suggest that Judge Aventurado was colluding with the accused perpetrators. The judge had also tried to convince the victims' families to make a settlement with the military, hinting that the defendants "are willing to pay".

Orders for the arrest of the accused were not issued until 22 November 2006. However, on December 8 when they enquired about the arrests, they were told that the officer-in-charge was on leave. On December 11 they were told that the warrants had been posted to the Municipal Police office in Mawab, Compostela Valley, which would be responsible to carry out the arrests. It is unknown as to whether or not the warrants have actually been served to the accused persons.

Forced disappearance

Jaime Fernando: An empty fishing boat

After midnight on 20 November 2006, unidentified members of the military came to Wawang Atlag, Malolos, Bulacan and gathered all men in the said village, took their pictures and left at around 1am.

At around 2 to 2:30am, Jaime Fernando was last seen at the Panasahan fish market, located near a military barracks. At around 7am, his empty boat was recovered floating near the fish market in Malolos; he has not been seen since. His disappearance is suspected to be connected with the activities in his village of that night.

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VICTIM: Jaime Fernando
INCIDENT: Disappearance
ALLEGED PERPETRATORS:
Unidentified military
personnel
DATE: 20 November 2006

AHRC UA-380-2006

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VICTIM: Edgar Sabdula
INCIDENT: Disappearance
ALLEGED PERPETRATORS:
Unidentified armed men
DATE: 22 October 2006

AHRC UA-363-2006

Edgar Sabdula: Abducted from house one night

On 22 October 2006, a former member of the insurgent Moro National Liberation Front, Edgar Sabdula (36), was forcibly abducted in his residence in Purok 1, Uyanguren, Tigatto, Buhangin District, Davao City. At about 12:15am, a number of hooded perpetrators in combat shoes and armed with rifles or machine guns barged into the house and took him from in front of his wife and into one of three vehicles: a blue L-300 van, a white van and a third unidentified vehicle, without plate numbers. His whereabouts remain unknown to date.

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VICTIM: Cadir Malaydan
INCIDENT: Disappearance
ALLEGED PERPETRATORS:
Four unidentified armed men
DATE: 19 October 2006

AHRC UA-363-2006

Cadir Malaydan: Pulled into van on way home

On 19 October 2006 Cadir Malaydan was abducted and forcibly disappeared while travelling home by motorcycle around 10:45am with his wife, Sitti. They had noticed a green L-300 van tailing them along Purok 1, Barangay Poblacion highway, Monkayo, Compostela Valley, close to two adjacent police outposts. The van overtook them and stopped further ahead. When they came close, the van's doors opened and four hooded men, some in military uniforms and others in civilian clothes emerged and aimed weapons at the couple, telling them to halt. Two were armed

with rifles and the others had .45-calibre pistols. The armed men then forced Cadir towards the van. During the scuffle, Sitti fell to the ground. She saw her husband was forced to sit on the floor of the van. When she tried to get up and follow, another man stopped her by aiming an Armalite rifle. She was told to run away, but she ignored him. Minutes later, the van sped off in an unknown direction.

**Nicolas Sanchez & Heherson Medina:
Often seen but never found**

On 18 September 2006, Nicolas Sanchez (27) and Heherson Medina (29) were allegedly abducted around 1am by around 30 soldiers in camouflage uniforms, while they were catching frogs in Sitio Cabatuan, Barangay Bueno, Capas, Tarlac Province.

The two victims are cousins from the indigenous Aeta group of northern Philippines who earned their livelihoods as farmers. According to family members they had no involvement in local politics whatsoever.

The two victims were reportedly seen in a military truck at the gate of the Northern Luzon Command at Camp Servillano Aquino, San Miguel, Tarlac City on September 21. The truck was later identified as the same model of vehicle as that spotted at the compound of the 71st Infantry Battalion of the Philippine Army in Hacienda Luisita in Tarlac City.

The victims were also seen on September 24 and again on November 1 at the Bravo Company compound of the 71st IB in Aqua Farm, located inside of the Hacienda Luisita in Barangay Cut-Cut II, Tarlac City.

Two officers, Second Lieutenant Ali Sumangil of Bravo Company, 71st IB and Technical Sergeant Gil Q. Villalobos both allegedly have known the whereabouts of the two victims.

A local rights group, Find, and the Region III office of the national Commission on Human Rights have made inquiries to the military about eyewitness testimonies that the two victims had been seen at various military camps in Tarlac City, but these reports have been denied. It was since reported that the military had been searching for two persons who gave information about having seen the men, who had to go into hiding.

**Sherlyn Cadapan & others:
“Are you looking for the women?”**

Two student activists, Sherlyn Cadapan and Karen Empeño, disappeared on 26 June 2006 while staying at a house in Purok 6, Barangay San Miguel, Hagonoy. Sherlyn Cadapan was pregnant at the time of the incident. One witness related that during the abduction Cadapan was kicked in the stomach by one of her abductors. Empeño was reportedly blindfolded with her own shirt after it had been taken off her by one of the abductors.

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VICTIMS:

1. Nicolas Sanchez

2. Heherson Medina

INCIDENT: Disappearance

ALLEGED PERPETRATORS:

71st IB personnel, including

2nd Lt. Ali Sumangil (Bravo

Co.) & Tech. Sgt. Gil Q.

Villalobos

DATE: 18 September 2006

AHRC UA-018-2007

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VICTIMS:

1. Sherlyn Cadapan

(pregnant)

2. Karen Empeño

3. Manuel Merino

INCIDENT: Disappearance

ALLEGED PERPETRATORS:

56th IB personnel

DATE: 26 June 2006

AHRC UA-245-2006

When peasant Manuel Merino confronted a group of armed men who came to the house, he was bound and was taken together with the victims. They were seen being taken on board a service vehicle with license plate number RTF 597, heading towards a nearby town in Iba, Hagonoy.

After the incident, an alliance of a local human rights groups, Alyansa ng mga Mamamayan para sa Pantaong Karapatan-Bulacan (People's Alliance for Human Rights-Bulacan), immediately formed a response team to locate the victims. They proceeded to the headquarters of the 56th Infantry Battalion, Philippine Army in Iba, Hagonoy, Bulacan where they spotted the vehicle used by the perpetrators. The quick response team was refused entry and the military denied having the three in custody. However, while they were outside a vendor asked them, "Are you looking for the women?" The vendor kept silent when the group said they were indeed looking for three missing persons, of whom two were women.

A person whom the military allegedly illegally arrested but later released on June 28, Alberto Ramirez, confirmed that Merino was being used by the military as guide. The service vehicle used in arresting Ramirez had the same license plate number to the vehicle used in abducting the three victims. Ramirez was taken to an army detachment in Barangay Mercado, Hagonoy, Bulacan. Upon his arrival at the army detachment, Ramirez was asked about his relationship with Cadapan and Empeño, but he denied that he knew them. Although released, he had not returned home for fear of further harassment by the military.

On July 12, the University of the Philippines-Diliman council passed a resolution expressing concern for the two students. Department of Interior and Local Government Secretary, Ronaldo Puno, and Department of National Defense Secretary, Avelino J. Cruz, were requested to help the two students. However, they have not been seen since.

The military has since reportedly stated that the two students were members of the NPA, however the administration of the University of the Philippines has denied any such accusations and confirmed that they were both students on its register. The Supreme Court of the Philippines has also released an order for the military to release Empeño and Cadapan, but the military has thus far taken no action concerning this order.

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VICTIMS:

- 1. Domingo Guinto**
- 2. Abelardo Interior**
- 3. Virgilio Tranquilino**

INCIDENTS:

Disappearance; torture

ALLEGED PERPETRATORS:

At least 30 unidentified armed men

DATE: 17 May 2006

AHRC UA-172-2006

Domingo Guinto & others:

Taken with chickens and a few pesos

Domingo "Jojo" Guinto, Abelardo Interior and Virgilio Tranquilino were forcibly taken by armed men believed to be military agents in General Tinio, Nueva Ecija on 17 May 2006.

Around 2am, the Guinto family was woken from their sleep by the arrival of several armed men who forcibly took Guinto and ordered the other occupants to lie with their faces to the floor.

They warned that they would be shot if they dared to look up. They took a mobile phone belonging to Guinto's wife and 100 Pesos (USD 2), then forced Guinto towards a black van and left.

The perpetrators then stopped in front of Abelardo Interior's house, less than two kilometres from Guinto's place. Their barking dog awakened Abelardo's wife. When she went out to have a look she was surprised to see a rifle pointed at her. She did not notice that her husband had followed and was just behind her. The armed men ordered them to get inside the house and wake up their children. They ransacked the second floor, apparently in search of a gun, but failed to find any. They took a farm implement, a wallet containing 20 Pesos and five live chickens, and ordered the family to get out of the house and lie on the ground face down or be shot. But Interior's youngest child did look up and saw his father blindfolded and being assaulted a few metres away.

The third victim, Virgilio Tranquilino, was a family friend of the Interiors who was spending the night at their house.

After the incident, workers from the Citizens' Alliance for the Advancement of Human Rights, a provincial chapter of Karapatan, started looking for the victims in various police and military camps. They went to the military's Fort Magsaysay and the police headquarters in General Tinio, Nueva Ecija, but the authorities denied having them in custody.

Philip Limjoco:

Disappeared after delivering son to bus station

Philip Limjoco was last seen by his son Glen at a bus terminal in Dau, Pampanga around 8:20am on 8 May 2006. Glen had gone to visit some of father's friends in the area together with him and was going back to Manila. On their way Glen noticed that a white Toyota Revo with tinted windows and number plates covered with dark fiberglass was following their car. When they arrived at the terminal, the car had disappeared.

Once Glen reached Manila around 9:30am he sent a text message to his father, but he did not receive a reply. Around 10:30am, he sent another, and tried to call his mobile phone at around 11am, but no one answered. Glen first thought that his father might be driving or busy, but when he failed to get any response by evening he began to worry. Then he asked some of his relatives if his father had contacted them or if they knew of his whereabouts; but they did not.

On May 9, Glen sought the help from human rights group Karapatan. In July 2005 he had done so once after unidentified men following him wherever he went. Glen had no idea as to why he was stalked, except that his father was accused of being a member of the New People's Army.

Philip Limjoco was included on a list of 51 individuals charged with rebellion by the Department of Justice that was reportedly drawn up by the police Directorate and Investigation and

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VICTIM: Philip Limjoco
INCIDENT: Disappearance
ALLEGED PERPETRATORS:
Unidentified police or
military personnel
DATE: 8 May 2006

AHRC UA-170-2006

Detective Management on 27 February 2006 after the country was placed under a state of national emergency. During martial law under the Marcos regime his name was also reportedly included on a list of “subversives”. He was twice arrested, brutally tortured and illegally detained.

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VICTIMS:

1. Riel Custodio

2. Axel Pinpin

3. Enrico Ybanez

4. Michael Mesias

5. Aristides Sarmiento

INCIDENTS: Abduction;

illegal detention

ALLEGED PERPETRATORS:

Unidentified police

personnel

DATE: 28 April 2006

AHRC UA-143-2006

Riel Custodio & others: Never arrived in Batangas

Riel Custodio, Axel Pinpin, Enrico Ybanez, Michael Mesias and Aristides Sarmiento have been missing since 28 April 2006 when they left Barangay Tolentino in Tagaytay City for Bauan, Batangas around 6:25pm, Tagaytay City, south of Manila by car. They could not be contacted by phone after 7pm.

The families of the victims learned that the five might be detained by the elements of the 740th Philippine Air Force, located in Fernando Air Base, in Lipa City, because Aristides Sarmiento sent an SMS message on April 30 from the same area where the army camp in Batangas City is located. Family and friends immediately went to the army camp with a lawyer. When they arrived around 3pm, the army officers at the camp denied any knowledge of the men. The families asked to enter the camp. Sergeant Dimaculangan at first accepted their request; however, when they approached the entrance of the detention facilities, they were refused permission to go further.

Meanwhile, a group of people from the Batangas chapter of human rights group Karapatan arrived at the camp and urged camp officials to help to locate the victims. After seeing this group, the army officers asked the families and friends of the victims whether they were associated with that group. Even though they said no, the army officers threatened to arrest them if they were connected; they were allowed out of the camp shortly after that.

The Commission on Human Rights later found out that the victims were arrested without warrants and jailed, facing charges of rebellion. Riel and Axel were in fact peasant activists working for the Kalipunan ng mga Magsasaka sa Kabite (Farmers' Federation in Cavite).

It has since been alleged that it was the police who abducted and detained the victims, not the military.

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VICTIM: Ronald Intal

INCIDENT: Disappearance

ALLEGED PERPETRATORS:

70th IB personnel

DATE: 3 April 2006

AHRC UA-127-2006

Ronald Intal: “His appointment is not yet over”

Ronald Intal (24) was forcibly taken by armed men at around 11am near a motorcycle terminal in Barangay Balete, Hacienda Luisita on 3 April 2006 and taken towards 70th Infantry Battalion headquarters in Aqua Farm of the barangay.

The victim's father Gonzalo went to the military headquarters on April 8 to inquire about his son's whereabouts, but the military denied having him in their custody. Gonzalo and his wife Lourdes then sought the assistance of Tarlac City Vice-Mayor Teresita Cabal.

Vice-Mayor Cabal told them that their son was being held by the army's Northern Luzon Command (Nolcom) and that he would only be released after Major General Jovito Palparan, then head

of the 7th Infantry Division, gave an order. "General Palparan will not release him yet because his appointment is not yet over," she reportedly said. However, Colonel Cesar Yano, Nolcom chief of staff publicly announced that they had not received any report from the barangay or local police officials about the incident.

Rodel Galang, village chief of Balete, reportedly tried to interview witnesses in connection with Ronald's disappearance, but they gave conflicting accounts while others refused to speak.

Ronald was an active youth leader deeply involved in the Hacienda Luisita farm workers' struggle (see above). He was also leader of the Samahan ng mga Kabataang Demokratiko sa Asyenda Luisita (Association of Democratic Youth in Hacienda Luisita) and the Anak ng Bayan (Children of the People) political party.

Dario Almonte:

Pulled out of house in front of neighbours and family

On 6 April 2006 Dario Almonte was forcibly abducted in front of his sister's house in Puyo Compound, Sta. Clara, Batangas City by at least 20 armed men riding in two service vehicles, some wearing hoods, who entered the compound with a couple who had peddled ice cream in the area the day before apparently acting as informants.

The armed men surrounded Almonte's house and those adjacent, and grabbed him when he came out. Dario's wife Cherry and other relatives tried to fight with the perpetrators, but the latter pointed guns at them. Dario clung to a post, but lost his grip when hit with an Armalite rifle. Soon after, the perpetrators took him with them in one of their vehicles, which had been parked nearby.

Dario's family immediately sought help from the former barangay chairperson, Thelma Maranan, who in turn asked help from the town mayor, Eddie Dimacuha, who in turn contacted the city police chief, Superintendent Anzo, who said that the victim was not in police custody and instead suggested that he could be in the custody of the Intelligence Division of the Fernando Air Base, as he had arrest warrants pending against him at police headquarters and the Regional Police Office in Camp Caringal in Canlubang. However, when the victim's family and fellow villagers went to check at the Fernando Air Base, the camp's acting commander, Colonel Facalso, denied having him in their custody.

The victim's whereabouts remain unknown. His abduction is believed to be related to his opposition to the planned demolition of urban areas in Sta. Clara, Batangas by the Philippine Ports Authority for an expansion project, in his capacity as leader of the People's Coalition for Alternative Development.

In a letter to the AHRC the Philippine army denied that such a case of forced disappearance had occurred but failed to explain what investigation or otherwise had been undertaken to reach that conclusion.

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VICTIM: **Dario Almonte**
INCIDENT: **Disappearance**
ALLEGED PERPETRATORS:
20 unidentified armed men
DATE: **6 April 2006**

AHRC UA-124-2006

VICTIM: Rogelio Concepcion
INCIDENT: Disappearance
ALLEGED PERPETRATORS:
24th IB personnel
DATE: 6 March 2006

AHRC UA-087-2006
 UP-052-2006

Rogelio Concepcion: Labour leader dragged from front of workplace

Labour leader Rogelio Concepcion disappeared on 6 March 2006 after being abducted by men riding on a motorcycle as he left the Solid Development Corporation factory in Barangay Mataas na Parang, San Ildefonso, Bulacan where he worked, to go home. Concepcion's fellow workers were frightened and fled to safety upon seeing the armed men seizing him. None have shown interest in cooperating with the authorities in investigations as they also fear for their lives.

Concepcion's family fears that he could have been abducted and killed by elements of the 24th Infantry Battalion of the Philippine Army. Marissa reportedly spotted a van parked near their house on the afternoon of March 6. The van stayed until late evening.

In November 2005, elements of the 24th IB entered the Solid Development Corporation factory and conducted a "military census" among the workers, then remained stationed in the compound. Concepcion and his colleague, Ador Vasalio, were reportedly monitored by the military since. Concepcion was officer-in-charge of the Solid Development Corporation Workers Association (SDCWA) and Vasalio its former president. In May 2005 the SDCWA had staged a strike because the management refused to recognise the union, despite a Department of Labor and Employment decision declaring the union "sole and exclusive bargaining agent".

The AHRC released a statement on the abduction of Concepcion and another victim of forced disappearance, Joey Estriber (see below) on March 20:

On 3 March 2006, Joey Estriber was waiting for a lift home in Baler, Aurora, when four armed men suddenly dragged him into a nearby van and drove off. Days later, Rogelio Concepcion was also forcibly disappeared in San Ildefonso, Bulacan on March 6. According to witnesses, two men riding on a motorcycle grabbed him as he left his work at the Solid Development Corporation factory. Concepcion is a labour leader, while Estriber is a staff member of the Bataris Formation Center. The men, their families and colleagues had been followed by military personnel, and threatened and harassed prior to their abductions. There is little to suggest that serious criminal inquiries into their disappearances will follow: to date none of the possible perpetrators among the military are known to have been investigated. The two cases are already following the familiar pattern known to people throughout the Philippines, with little or no investigation and an absence of witnesses and accompanying evidence leading to "case closed" without result.

One reason for this failure is that there is no law prohibiting forced disappearance in the Philippines, despite the frequency of blatant abductions there. Without a law, relatives of men like Estriber and Concepcion have little hope for adequate and effective investigations followed by prosecutions and punishment of the perpetrators, as well as compensation. They have nowhere to turn. Although the proposed Act Defining and Penalizing the Crime of Enforced or Involuntary Disappearance (HB 1556) is pending before the parliament, it has been

**“I am in no
 organisation,
 I am just
 disgusted by
 this—
 corrupt
 bastards!”**

—David Twigg, UK

unnecessarily delayed. Like other laws that seek to address human rights and people's grievances, the legislature seems to give it negligible attention.

The International Convention for the Protection of All Persons from Enforced Disappearance is due to come into effect. The convention holds that there are absolutely no circumstances that justify forced disappearance, which it defines as

"The arrest, detention, abduction or any other form of deprivation of liberty committed by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law."

As the Philippines was a signatory to the Declaration on the Protection of All Persons from Enforced Disappearance, presumably its government will seek to become a party to the new convention as soon as possible, at which time it will be bound by international law to enact a domestic law.

But there is no need to wait until then. The Asian Human Rights Commission (AHRC) urges the government of the Philippines to take the lead and criminalise forced disappearance without delay. Having recognised the principles contained in the 1992 declaration there should under any circumstances have been greater effort in seeing a law on disappearances introduced. In view of the fact that state agents and others acting on their behalf in the Philippines are known to routinely abduct and disappear persons there, there should also have been a far greater sense of urgency.

To see this happen, a far more vigorous public debate is desperately needed in the Philippines on the continued use of forced disappearance, and its significance for the society as a whole. Through such discussion, the brutal realities of enforced disappearance will become known and understood, not only in terms of their destructive effects on families and communities, but also their poisonous effects on the institutions and agencies for policing and security.

For Estriber and Concepcion the introduction of a law criminalising disappearances in the Philippines will come too late to have deterred the perpetrators of their abductions from carrying out the crimes. But for their families and colleagues, as well as those of other victims and the thousands of potential victims, it cannot come too soon.

Joey Estriber: "Don't worry, I'm alright"

On 3 March 2006 around 6:20pm Joey Estriber, a programme officer of the Bataris Formation Center, was waiting for a ride home on San Luis Street at the corner of Burgos Extension when forcibly dragged by four armed men towards a maroon van with tinted windows and no registration plates parked nearby. Estriber yelled to get attention but bystanders thought he was joking. One of the abductors grabbed Estriber while the others subdued him before speeding in a southbound direction.

At 6:45pm, Estriber supposedly sent an SMS message saying: "Don't worry, I'm alright" to his relatives, but when he was asked of his whereabouts, he replied: "I'm in hiding." The recipient of the messages doubted that it was Estriber who had sent the message. After that, his number could no longer be contacted.

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VICTIM: Joey Estriber
INCIDENT: Disappearance
ALLEGED PERPETRATORS:
Four unidentified armed men
DATE: 3 March 2006

AHRC FA-036-2006
UP-048-2006



When they came to know of the abduction, his relatives and co-workers immediately went to a police station to report the incident. It was found that the van involved in the abduction was seen parked in front of the Aurora Electric Company, a few meters away from an Internet café where Estriber went, an hour beforehand. Baler Police Station personnel immediately put up checkpoints but failed to recover the victim or trace his location. Estriber's family called up radio stations asking for anyone who may have seen him to come forward. However, they failed to get any response.

The Bataris Formation Center is an alternative learning centre for lay people. On 25 December 2005 its women's accommodation was deliberately set on fire. Staffers suspected that the arson was the handiwork of the 48th Infantry Battalion, Philippine Army in Aurora. Personnel from this unit had earlier harassed Alfonso van Zijl, secretary general of the Justice and Peace Advocacy Group—which is situated in the same compound—and Manding Colcol, staff member of Bataris, on December 14.

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VICTIM:

1. Pepito Campus
2. Leonardo Parungao
INCIDENT: Disappearance
ALLEGED PERPETRATORS:
Four armed men in police
sweatshirts
DATE: 18 February 2006

AHRC UA-099-2006

Pepito Campus & Leonardo Parungao:
Taken by police or someone else?

On 18 February 2006 at 2pm, Pepito Campus and Leonardo Parungao were riding in their barangay service vehicle with Elizabeth Parungao, a community youth leader, and around 10 other student youth residents of Barangay Bagong Sikat, Cabiao. They were coming from Jaen, Nueva Ecija and passing between Barangay Luyos and Buliran (near a garbage dumpsite) in San Antoni, Nueva Ecija when four armed men wearing long-sleeved sweatshirts with POLICE on them stopped the vehicle at a checkpoint. They ordered Campus and Parungao to step outside of the vehicle. According to the students, one of the soldiers forced Parungao to the ground, stepped on his head, tied his hands behind his back and forced him and Campus into a maroon van that had no license plate. The van then headed towards Barangay Marawa, Jaen and La Paz, Tarlac. The victims' whereabouts remain unknown.

The others in the vehicle immediately informed the victims' families, who in turn reported the incident to the police in San Antonio. The police, however, denied having set up a checkpoint and deploying policemen in the area where the victims were abducted. The policemen instead said that soldiers led by Captain Renato Rebuelto frequently patrol in that place, but could not give further information.

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VICTIMS:

1. Reynaldo Manalo
2. Raymond Manalo
INCIDENT: Disappearance
ALLEGED PERPETRATORS:
24th IB personnel, led by
Master Sgt. Rollie Castillo
DATE: 14 February 2006

AHRC UA-077-2006

Reynaldo & Raymond Manalo:
Abducted for not coming to meeting?

Reynaldo Manalo and his brother Raymond were illegally arrested and subsequently disappeared on 14 February 2006 by five men believed to be military agents who first broke into their parents' residence in Barangay Bohol na Mangga, San Ildefonso, Bulacan after 2pm. The perpetrators were armed with rifles and

wore civilian clothes. The men's father, Jesus, was talking to another person near their front door while their mother Ester was at the kitchen at the time.

One of the perpetrators went to the bedroom and allegedly took items in the drawers. Raymond, who was sleeping there, was awakened by the noise. They intruders asked if he was Bestre: a neighbour. They slapped him and hit him in the abdomen with a rifle butt, then ordered him to lie down and tied his hands behind his back. He was dragged out of the house, during which time he was repeatedly kicked.

The perpetrators took Raymond to the house of his elder brother, Reynaldo, whose wife Maria Leonora had just arrived from gathering charcoal. They ordered Reynaldo to kneel down. When he refused, the alleged perpetrators poked their guns at him and started kicking him. One of the perpetrators entered his house and illegally searched for hidden firearms. When they failed to find any, they took Reynaldo and Raymond with them. They later went to Bestre's house, not far from the victims' houses. They forcibly opened the door and ransacked items inside.

The victim's cousin, Celeste, was passing by at the time, on her way to the house of Jesus and Ester with their grandchildren. She noticed that the door of the house had been broken and saw the perpetrators searching inside. When they saw her, the perpetrators asked her name. She was hesitant to answer them, but her cousin, Raymond, told her to cooperate with them to avoid getting into trouble. She and the children were poked with guns as they talked to the perpetrators. Celeste last saw Raymond and Reynaldo taken away in a white van with their hands tied behind their backs.

On February 15, Reynaldo's wife Maria Leonora together with other family members abandoned their homes for fear that the men would return and harm them. They reported the incidents to the Municipal Hall of Ildefonso and police station Chief Emma Libunao at the headquarters of the Philippine National Police in San Ildefonso. Libunao later took them to the detachment of the 24th Infantry Battalion, Philippine Army, to meet with its head, Master Sergeant Rollie Castillo. Castillo told them not to worry, that they would coordinate with those who took custody of the Manalo brothers.

Prior to the incident, on February 5, Castillo's colleague called for a meeting with residents of Bohol na Mangga. Members of the Manalo family reportedly failed to participate as they had not received any notice for the meeting. It is believed that their failure to attend the meeting may have prompted the alleged perpetrators to arrest and harass members of the family. Ester's uncle, Primitivo Principe, recalled that the faces of some of the alleged perpetrators were similar to those who called for the February 5 meeting.

**“we strongly
protest all the
killings”**

*—Rev. Dr. P. Mohan
Larbeer, India*

VICTIM: Francis Desacula
INCIDENT: Disappearance
ALLEGED PERPETRATORS:
730th Combat Group air
force personnel
DATE: 9 January 2006

AHRC UA-042-2006

Francis Noel Desacula: “Don’t get mad, I will be home”

On 9 January 2006, after 3pm, elements of the 730th Combat Group, Philippine Air Force set up a checkpoint in Barangay Malinis, Lemery, Batangas. Thirty personnel conducted inspections along the highway. Francis Noel Desacula (35) went missing at that time, as he was on his way home on the same highway. His wife Ana expected him to return home that day but he did not. Instead, he briefly spoke to her on his mobile phone and told her that he would come home after finishing his work, but he did not mention his whereabouts.

On January 10, at 7:30am Desacula again called Ana, from a different mobile phone number. When Ana asked him why he was not using his own phone, he said that the SIM card was blocked. Ana asked if he was okay and when he would come home. He promised Ana to come home and told her, “Don’t get mad, I will be home. Just stay there and wait for me.”

On January 11, at 2:30pm, Ana called her husband’s new number to inquire why he had failed to return home. It took awhile before the mobile phone was answered. While speaking to her husband, Ana noticed her husband’s voice sounded as if he was suffering from pain, and she heard voices around him. Not long into the conversation, Desacula hung up, which he usually did not do. He only told his wife that he was fine and promised to come home. When Ana tried calling him back, the phone was turned off.

On January 12, Ana sought help from the Batangas chapter of human rights group Karapatan. They sought help from local officials and went to different military camps for days, hoping that they could find Desacula, but failed. On January 18 Ana and two members of Karapatan were harassed by the military when they went to the Air Force Camp in Palico Nasugbu, Batangas. Two personnel attached to the 730th Combat Group of Philippine Air Force (CGPAF) labelled them supporters of communist rebels and they were forced to leave without receiving any information.

On January 19, one officer attached to the 730th CGPAF informed Karapatan by text message that their commanding officer, Colonel Ruben Carandang, had signed a statement denying that they were holding Desacula inside the camp.

A fact-finding inquiry conducted later found that residents of Navotas, Balayan had seen Desacula on January 15, tied up and being used by military as a shield in their operations. Additionally, on January 16 he was seen by residents in Laurel, Batangas on board a military truck with elements of the Philippine Air Force.

VICTIM:
Ustadz Habib Darupo
INCIDENTS:
Abudction, torture
ALLEGED PERPETRATORS:
Four unidentified armed men
DATE: 24 October 2006

AHRC UA-363-2006

Torture, intimidation

Ustadz Habib Darupo: Driven around and tortured in van

On October 24, an Arabic teacher, Ustadz Habib Darupo (“Sonny”), went missing after he was forcibly abducted near a public market in the Municipality of Banaybanay, Davao Oriental when around 4pm he was riding on his motorcycle with a

companion, Rahim, after Ed'l Fit'r celebrations. Ustadz Darupo and Rahim were going in to the market when a gray L-300 van suddenly blocked their way and four hooded persons alighted. One of the perpetrators was armed with an M-16 rifle. Rahim fled and Ustadz Darupo also briefly broke free and fell into a canal. One of the armed men caught up with him, pulled his head and hit on his arms. He was then dragged towards the van. His feet were tied with rope and he blindfolded with packing tape.

Ustadz Darupo was brutally assaulted in the van for about three hours and interrogated about the whereabouts of a certain Ustadz Hamid. His driver's license, identification card and Seiko diving watch were taken. After about 30 minutes, Ustadz Darupo sensed that the tire of the vehicle had burst, and he was transferred to another vehicle.

Around 11am the following day, October 25, Ustadz Darupo was released in Tagum City. Still with his eyes masked, he was put down from the van and told not to stand up. After that his abductors left.

Fr. Antonio Ablon: "Even the bishop was killed; we will make you an example here"

At around 4:45pm on 6 October 2006, Fr. Antonio Ablon, a priest of the Iglesia Filipina Independiente (IFI) church based in Cagayan de Oro, received a death threat via SMS (short message service) from a mobile phone with the number 09203546270. It read: "Fr. Ablon, even the supreme bishop was killed. We will make you an example here in Cagayan de Oro." The message was referring to the killing on October 3 of Bishop Alberto Ramento in Tarlac City (see case above).

Fr. Ablon has been actively engaged in human rights work as a National Council Member of the Promotion of Church People's Response and secretary general of the human rights group Karapatan in his region. It is not the first death threat that he has received.

**Gemma Lape & others:
"She's smart. Why don't we just kill her?"**

Eight workers were were staying at a warehouse in Rosario, Cavite on 28 September 2006 when Philippine Economic Zone Authority (Peza) police and Jantro security guards arrived in their service vehicles and arrested them. The police and guards accused the workers of providing food and supporting other workers on strike at the Korean-owned Chong Won Fashion factory nearby, where they had imposed a food blockade. They also accused them of having "subversive" materials, such as books on the history of labour movement and workers' rights.

In fact, seven of the eight arrested workers were former employees of another Korean-owned garment factory, SP Ventures, who lost their jobs when their factory shut down in May 2006. They were forced to stay at the warehouse to ensure

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VICTIM: Antonio Ablon
INCIDENT: Intimidation
ALLEGED PERPETRATORS:
Unknown
DATE: 6 October 2006

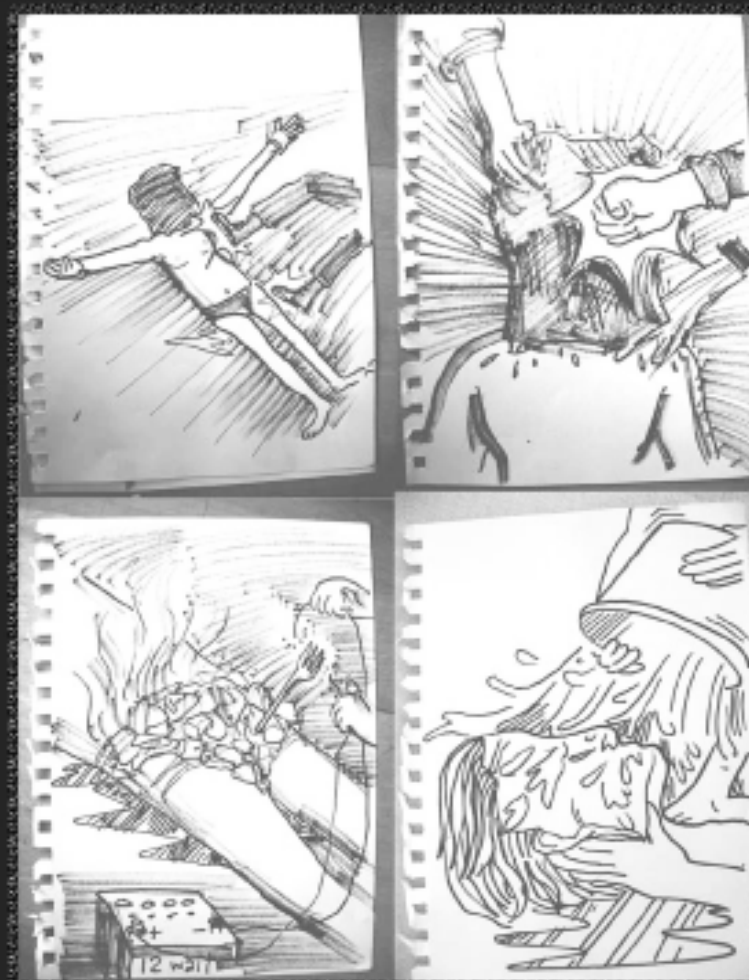
AHRC UA-334-2006

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VICTIMS:
1. Gemma Lape
2. Lorna Reli
3. Ivy Villasan
4. Ana Lou Estrimos
5. Glaysa Layesi
6. Josephine Bahar
7. Pablito Sapata
8. Rodelito Amo
INCIDENTS:
Illegal arrest & detention
ALLEGED PERPETRATORS:
Rosario Municipal Police
Station personnel
DATES: 28 September -
4 October 2006

AHRC UA-325-2006
UP-185-2006

ITIGIL ANG PAGGAMIT NG TORTYUR SA IMBESTIGASYON



GAWING KRIMEN ANG TORTYUR

Ayon sa alituntunin ng UN Convention Laban sa Tortyur

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Design: Chumpol Akapanthanon

that the remaining equipment of the insolvent factory would not be smuggled out without the employer paying them with severance, unpaid salaries and benefits.

According to one of the arrested workers, Gemma Lape, on their way to the Rosario Municipal Police Station following arrest, the police and an official questioned her regarding her relationship with the strikers. When she told them that she had nothing to do with them, one policewoman told her companion, “She’s smart. Why don’t we just kill her?”

After they arrived at the police station, Lape said investigators attached to the Rosario and Peza police started illegally searching her and her companions’ personal belongings. Her mobile phone was seized. She was later taken to the interrogation room while her seven companions were locked up at the detention center. The police refused to allow access to legal counsel. When a group of paralegals arrived to represent the victims one of the policemen refused to acknowledge them. They also insisted that they were not detaining the victims, despite putting them behind bars. The police refused to allow private conversation between the paralegal officers and Lape. One of the policemen yelled at one of the paralegal officers and threatened them with removal.

Some of the arrested workers had caught fevers and colds at the time of arrest due to a heavy downpour. When the paralegals requested the police to provide food and medicines for the detainees, they simply replied that they didn’t have any. The paralegals had to get food and medicines themselves.

The Rosario Municipal Police Station later attempted to file charges of inciting sedition against the detainees, but the public prosecutor rejected the charges for lack of evidence. Only the charge of trespassing was recommended to be filed at the Municipal Trial Court, and the workers were arraigned and pleaded not guilty to the charge. The judge ordered their release without imposing bail.

According to Gemma Lape, the workers had stayed at the warehouse with the knowledge and consent of Peza officials but that the officials carried out the arrests in an effort to crack down on support to the other workers on strike.

Kristine Tulay & others:

Detained and beaten over possession of corpse

Hermogenes Aumentado sought the assistance of the Southern Tagalog chapter of human rights group Karapatan to retrieve the body of his daughter, Raquel Aumentado, following her killing on 18 August 2006, apparently in an encounter between the armed forces and New People’s Army rebels.

On August 22, the group organised a mission composed of eight Karapatan volunteers, two barangay officials and three staff members of a local funeral parlour. The mission notified Vice-Mayor Reynaldo Comiso before proceeding to the location where Raquel was reported killed along with family members.

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VICTIMS:

1. Kristine Tulay
2. Christopher De Leon
3. Khristina Mae Guray
4. Mary Jane Almoete
5. Virgilio Batardo
6. Ramon Blastique Fajardo
7. Nona Quejero
8. Leonardo Quejero

INCIDENTS: Illegal arrest & detention; torture

ALLEGED PERPETRATORS:

74th IB personnel, led by Col. Amado Bustillos, including Lt. Marcus Bibat (Bravo Co. commander), Lt. Dinurog Corp. Ferdinand T. Ponce, Corp. Wilmer Lapinig Corp. Renelio M. Miranda, Corp. Ruel E. Miranda and Corp. Jemuel P. Ontic
DATE: 22 August 2006

AHRC UA-275-2006
UP-169-2006
UP-171-2006

“the rabbis say
‘to kill one
person is to kill
the whole human
race and to save
one person is to
save the whole
human race’—
Amen”

—Helen R. Graham,
Quezon City

After 10am, elements of the 74th Infantry Battalion led by Colonel Amado Bustillos blocked their vehicle in Barangay Tambakan, Catanauan, ordered the family and barangay officials to leave and detained the eight Karapatan volunteers. He also refused to release the body of the deceased to her family.

The eight volunteers were forced to march for four hours at gunpoint, and the soldiers threatened to shoot them if they did not run fast enough to the battalion's Bravo and Charlie Companies' detachment. The soldiers, under command of Lieutenant Marcus Bibat, also repeatedly punched and beat the group's four male captives on their heads.

Once at the barracks, one of the detainees, Christopher de Leon, was accused by the soldiers of being an insurgent sniper simply because he was wearing a black shirt, after which he was allegedly assaulted.

Another, Leonardo Quejero, was separated from the group and interrogated. He was forced to kneel face-down and told to admit that he was an insurgent. The perpetrators were then joined by Lieutenant Dinurog, the commanding officer during the August 18 encounter. Leonardo was repeatedly punched on both sides of his body and on his head. The soldiers also terrorized him by repeatedly cocking their guns to imply that he would be killed.

The military subsequently filed rebellion cases against the eight in the Provincial Prosecutor's Office, with the support of Corporals Ferdinand T. Ponce, Wilmer Lapinig, Renelio M. Miranda, Ruel F. Miranda and Jemuel P. Ontic, who all acted as petitioners. However, Provincial Prosecutors Dione V. Bustonera and Wendell R. Ilagan dismissed the case due to lack of evidence.

The eight were released at around 11pm on August 23, and obstruction of justice charges filed against them in lieu of the rebellion charges. The victims also filed complaints against the military.

Diego Ramos: Assaulted for asking questions

Don Bon Diego Ramos, a 16-year-old boy, was severely beaten by a village militia officer after arrest in Barangay Maybunga in Pasig City, Metro Manila at midnight on 13 August 2006. Ramos was walking on his way home after a concert when the alleged perpetrator, Cesar Zamora, repeatedly hit him with a club and dragged him towards a truck. Zamora, a member of the Barangay Security Force, was at that time assisting police in arresting persons at a concert. When Ramos asked Zamora, "Why are you arresting me?" instead of giving an explanation, Zamora beat him hard with a wooden club to his chest, right thigh and stomach. Zamora also threatened Ramos with a firearm. Despite heavy rain, he hurled Ramos into a truck without a top cover.

Ramos was not the only one who forcibly arrested and taken towards the Barangay Hall. At least eleven others, some of them also minors, were taken into custody and questioned. It was reported later that they were arrested due to complaints by

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**VICTIM: Diego Ramos &
around 11 others**
INCIDENT: Assault
ALLEGED PERPETRATOR:
Cesar Zamora, Barangay
Security Force member
DATE: 13 August 2006

AHRC UA-269-2006

residents about the noise from the concert. The village militia said that the concert had not been approved. They threatened to charge Ramos and others for public alarm and scandal, and for violating the village curfew. Although some of those arrested were minors, the militia did not inform their parents. Nor did they give treatment for injuries caused.

Ramos and his companions were released at 5am. Ramos then proceeded to a public hospital where his injuries were examined. The next day, August 14, he was accompanied by his mother, Maria Ellenor Magdaraog, to file a complaint at the Barangay Hall. But the officials reportedly attempted to exonerate Zamora. Christopher Tillo, head of the Peace and Order Committee who was supervising the operation said that policemen had beaten Ramos, not his man.

Security force personnel are not supposed to be armed unless they have permits to carry weapons. When Zamora was asked about the firearm he had used the night before, he claimed that it was lent to him by the police: this is admission of illegal carrying of a firearm. Tillo reportedly attempted to argue that his men were allowed to have guns; however, he was unable to produce permits to support his claims.

After going to Barangay Hall, Magdaraog and her son went to the children and women's desk at the Pasig City Police to report the incident and file formal charges against the perpetrator. They advised that Ramos had to get medical documentation. The police then called Zamora for questioning, and Tillo accompanied him. Tillo reportedly threatened to file counter-charges against Ramos and his companions if he decided to file charges against Zamora.

Tillo's men have been accused of repeatedly abusing their authority of arrest. The group has reportedly threatened a number of victims not to file formal charges against them once released.

Uztadz Kusain Abedin: Arrested on unverified information

Uztadz Kusain Abedin was arrested at a bus terminal on Don Rufino Alonzo Street, Cotabato City, at 6:45pm on 3 August 2006 and without any reason taken into custody of Task Force Tugis, a special military unit headed by Colonel Calanoy. A witness saw him forcibly put in a maroon-coloured military service utility vehicle with license plate number SFU-275, which was last seen heading towards the headquarters of Task Force Tugis at PC Hill, Cotabato City. Guinaid Adam, a manager of the bus company from where Abedin was taken, reportedly accompanied him to the military's headquarters.

When Abedin's colleagues at United Youth for Peace and Development, a Mindanao youth development organisation, went to the Task Group Tugis' headquarters, the military could not present any warrants to justify Abedin's arrest. He was not given access to legal counsel for some hours and the reasons for his detention were not made clear. It was later learned that it was prompted by an SMS purportedly sent by an intelligence source

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VICTIM:
Uztadz Kusain Abedin
INCIDENT: Illegal arrest
ALLEGED PERPETRATORS:
Task Force Tugis personnel,
commanded by Col. Calanoy
DATE: 3 August 2006

AHRC UA-260-2006

warning of a plan to bomb the bus terminal in Cotabato City. Abedin's colleagues decided to stay on vigil outside the headquarters until he was released.

Uztadz Kusain Abedin was freed around 9:40pm on August 4 after negotiations between a lawyer brought by Abedin's relatives and the military men who arrested him. The officers insisted that his name was included on an arrest warrant, but could not produce any such document. They appeared to have acted on unverified information.

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VICTIMS:

1. Shamroud Adulaziz

2. Blanche Yamba

3. Bill Andres

4. Juvy Hornales

INCIDENT: Intimidation

ALLEGED PERPETRATORS:

Unknown

DATE: 5 July 2006

AHRC UA-228-2006

Shamroud Adulaziz & others: "Your days are numbered"

On 5 July 2006, four spokespersons of groups based in General Santos City, Mindanao—Shamroud Adulaziz of human rights group Karapatan, Blanche Yamba of the Gabriela Women's Party, Bill Andres of the Bayan alliance and Juvy Hornales of youth group Anak Bayan—received SMS messages from 09066677136, saying that, "Supporters of the Communist Party of the Philippines-New People's Army-National Democratic Front (CPP-NPA-NDF) your days are numbered - AralSaMasa".

Prior to the incident, on July 4, a local tabloid newspaper published a story quoting an intelligence report that a "death squad" is plotting to kill seven leaders of progressive organisations in the area. Neither the source of the story nor a by-line was provided.

It was learned that AralSaMasa sent similar SMS messages to George and Maricel Vigo two weeks before they were killed on June 19 (see case above).

The four persons approached General Santos City Mayor Pedro Acharon Jr. and City Councillor Eduardo Leyson III, chairman of the Committee on Peace and Order, requesting intervention; no action was known to have been taken by them. When three of the four met Acharaon on July 11, they found that no credible investigations had been conducted.

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VICTIM:

Marissa Dumanjug-Palo

INCIDENT: Intimidation

ALLEGED PERPETRATORS:

Four unidentified men

DATE: 31 May 2006

AHRC UA-178-2006

Marissa Dumanjug-Palo:

"Did you notice the motorcycle following us?"

On 31 May 2006, Marissa Dumanjug-Palo, an official with the National Democratic Front and former staff of human rights group Karapatan's national office was on her way to her office in a taxicab when four unidentified men riding on two motorcycles followed her. Below is her account of what occurred.

Around 11:15am today, 31 May 2006, I hailed a taxi along V. Luna Road, Quezon City, in the vicinity of V. Luna hospital (several establishments away) on my way to the office. The taxi went towards the direction of East Avenue.

The taxi driver called my attention when we reached the traffic light (red) in the corner of V. Luna Road and East Avenue by saying, "Ma'm, napansin nyo ba yung motorsiklo na nakasunod? (Ma'm, did you notice the motorcycle following us?)" I looked back but did not see a motorcycle. I asked him, "Bakit po? Saan ninyo nakita na nakasunod? (Why po [expression of respect for elder]? Where did you notice that it was

following us?” He replied, “Bandang kanto ng hospital nakita kong sumunod, parang nag-cut mula sa kanto. (In the vicinity of the hospital, near the corner, I saw that it started following us, it seems to have swerved from the corner.)” I replied, “Sige sa EDSA ninyo idiretso, mag-U-turn tayo sa ilalim ng fly-over, pero huwag kayong hihinto, diretso lang. (Okay, go directly to EDSA, make a U-turn under the fly-over, but do not stop, just go straight.)”

We turned left on East Avenue and proceeded towards EDSA. I then looked back again and vaguely saw a black motorcycle with two men riding but it was quite a distance and they were partly hidden by the other vehicles. When we made a U-turn under the fly-over near GMA-7 station, I saw that the black motorcycle (model like a dirt bike) was one vehicle away and also making a U-turn. Riding it were two men wearing black helmets and dark-colored jackets. I was able to see that the motorcycle did not have a license plate.

I instructed the taxi driver to go towards Timog Avenue (turning right) and take one side street (the jeepney route) towards E. Rodriguez. The black motorcycle was still following us. Before we were to turn left towards the side street (which was three or four corners from GMA-7), the taxi driver said, “Ma’m, dalawa na sila. (Ma’m, there are now two motorcycles.)” I again looked back.

I saw another black motorcycle (bigger model than the dirt bike and similar to what SWAT teams use) with two men riding it. They were also wearing helmets and dark-colored jackets. The second motorcycle was around ten meters behind the first motorcycle. When we turned the corner, I asked the taxi driver, “Manong, paano ninyo nasabi na dalawa sila? Magkasama sila? (Manong [term for elder male], how can you say that there are two? Are they together?)” The driver replied, “Parang synchro ang kilos eh. (It’s as if their movements are synchronized.)”

At the end of the street, we turned left towards E. Rodriguez. When I looked back again, I saw that the second motorcycle was now one vehicle behind us and the first motorcycle was further back.

The two motorcycles followed us the entire stretch of E. Rodriguez, maintaining a distance of one or two vehicles (even if there was no vehicle between us and them), did not attempt to overtake us and always rode diagonal from each other.

I instructed the taxi driver to turn right on New York Street and towards Lantana Street.

When we turned right on New York Street, the two motorcycles did not follow anymore and sped straight towards the direction of Cubao. I saw that the second motorcycle also did not have a license plate.

All four men did not have any bags with them. I was not able to see if the back-riders were wearing gloves (like the driver’s) because they always had their hands in their pockets or were hidden whenever I had the chance to look towards their direction.

“as long as the Government of the Republic of the Philippines does not have the will to implement genuine and proper measures to bring an end to human rights defenders’ extrajudicial killings and prosecute their perpetrators, the death penalty will still be in force in the Philippines”

—Nuria Tovar Velázquez, Spain

VICTIMS:

1. Rundren Berloize Lao
2. Anderson Alonzo
3. Aldo Christian Manzoza
4. Ron Pandino
5. Ray Lester Mendoza
6. Jethro Villagrancia
7. Neil Russel Balajadia
8. Darwin Alagar
9. Arvie Nunez
10. Jefferson de la Rosa
11. Frencess Ann Bernal

INCIDENTS: Illegal arrest & detention; torture

ALLEGED PERPETRATORS:

1604th PMG personnel led by Pol. Suptdt. Brent Madjaco; 3rd Company RMG, led by Pol. Snr. Insp. Joseph Paolo Bayungasan, and unidentified military agents

DATES: 14-16 February 2006

AHRC UA-082-2006

UP-063-2006

UP-067-2006

UP-092-2006

UP-099-2006

UP-100-2006

UP-115-2006

UP-137-2006

UP-152-2006

UP-002-2007

Rundren Berloize Lao & others: Suffocated, electrocuted and beaten

Eleven young persons—two of them minors—were brutally tortured and subsequently falsely charged following their arrest on 14 February 2006 at a checkpoint in Abatan, Buguias, Benguet while hitching a ride on a dump truck on their way to Sagada, Mountain Province. When they reached Abatan, Buguias, Benguet, they were stopped by heavily-armed policemen allegedly attached to the Provincial Police Mobile Group and the Regional Mobile Group of Benguet. They ordered the victims to get down from the dump truck and ordered them to kneel down, kicking their backs with such force that they all fell face-first to the ground. The policemen started severely beating them one after the other and threatening to kill them. Every time the police noticed any movement from the victims, they were punched, kicked and hit. One of the victims was forced to kiss the mouth of a policemen's dog.

After their belongings were confiscated, the eleven were taken to the 1604th PPMG camp, where they were allegedly further tortured. They were beaten on different parts of their bodies, and exposed under the heat of the sun with hands tied behind their backs. They were also blindfolded, beaten in the genitals and threatened with death. Some of the victims were thrown into a pit and had soil, garbage and other matter dumped over their heads. They were electrocuted, stepped on and their fingers were squeezed with bullets inserted between them. Others were suffocated with plastic bags or had their heads forced into pails of water. Buckets were also hung on their heads and water was poured into them. They were also forced to strip naked and had freezing water sprayed onto them.

The victims were tortured in order to force them to admit responsibility for a raid of a military camp in Cabiten, Mankayan, Benguet on February 10. A rebel group had already admitted responsibility for the raid. While in police custody, four of the victims were ordered to sketch the supposed battle area and then guide the police to locate the supposed hidden firearms in the mountains. When the police failed to find anything there they tortured the victims further.

While in police custody, one of the victims, Rundren Berloize Lao, was able to escape by jumping into a ravine beside the camp and running for safety while being fired upon by policemen. He went back to Baguio City and sought help there from the Department of Social Welfare and Development (DSWD). The DSWD, however, turned Rundren over to the National Bureau of Investigation (NBI). Soon after, elements of the PPMG and RMG served an arrest warrant on Rundren, together with the others, for robbery with homicide. The victims were held in Benguet Provincial Jail where they had no adequate medical treatment or counselling.

The victims, represented by six lawyers from the Free Legal Assistance Group, filed motions to withdraw the charges against them, and on March 31 they also filed charges against six policemen in Buguias, Benguet, for violation of Republic Act 7438, which defines certain rights of persons arrested, detained or under custodial investigation.

On May 19, the Regional Trial Court in La Trinidad, Benguet ruled that the arrest of the 11 victims had been illegal as it had been without a warrant and not during a “hot pursuit” operation.

The two minors, Frencess Ann Bernal (15) and Ray Lester Mendoza (16) were only released from jail on May 30, after the court granted an earlier petition by their legal counsel to turn them over to their parents.

While the others were in jail there was a plot to kill them.

Rundren Berloize Lao was told by one inmate that sometime in April he was offered 100,000 Pesos (USD 2000) in an envelope along with a knife, to kill Lao. The inmate refused the offer and instead warned Lao to take precautions.

Similarly, a fellow inmate of Jefferson de la Rosa, William Pangan, informed him that he had accepted money to kill either de la Rosa or Lao, after being sent a gun on May 9. On May 7, Pangan was transferred into de la Rosa’s cell from a cell which was formerly adjacent to Lao’s. Pangan told de la Rosa that he feared that he would be killed immediately after he killed either of the two torture victims, so he would not do it.

On June 28, the victims added charges of arbitrary arrest and detention against the policemen and other perpetrators at the Benguet Prosecutor’s Office.

On December 20, the remaining nine torture victims were released from the provincial jail in La Trinidad, Benguet, by the order of Regional Trial Court Judge Benigno Galacgac after dismissing the case due to lack of evidence.

While all the victims have been cleared of the false charges against them, the complaints they filed against the police, military and militia forces involved in their arrest and detention. The Office of the National Police Commission and Office of the



A policeman stops demonstrators calling for the release of the 11 torture victims, outside police headquarters

**“my brother
who is a human
rights lawyer in
the Philippines
was shot last
year—fortunately
he survived but
many others like
him have not.
Please stop the
killings”**
—*Dino Juloya, USA*

Ombudsman for the Military and Other Law Enforcement Office, which have received the complaints, are yet to decide on the matters.

The AHRC released a statement on this case on March 31:

The brutal police torture and filing of supposedly fabricated charges against 11 persons—including two minors—in Buguias, Benguet on 14 February 2006 is yet another instance of the arbitrary use of authority by the police and military in the Philippines. As the Asian Human Rights Commission (AHRC) reported earlier, the group were arrested in the north of the country while hitchhiking on a truck, and allegedly beaten and kicked by members of the 1604th Police Provincial Mobile Group. Back at the police camp, they were accused of being part of a February 10 raid on a military base, and again allegedly subjected to extremely cruel torture, including genital beating, suffocation and electrocution. They have been in custody since, and the trial against them is now getting underway.

Despite the gravity of the victims' allegations against the police, there is no way for them to lodge complaints or obtain redress as envisaged by common article 2 of the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment—both of which the government of the Philippines claims to uphold. There is no law prohibiting torture in the Philippines, even though it is outlawed by the 1987 Constitution. A 2005 bill to introduce the Anti-Torture Act (HB 4307) has been stalled in parliament. The failure to enact a law to criminalise torture violates the government's international obligations, especially under the Convention against Torture.

Not only are torture victims in the Philippines denied the possibility of making complaints, they are also denied medical treatment. One of the Benguet victims, Rundren Lao, managed to escape—while the police were drunk, he says. Naively, he sought help from the Department of Welfare and Development (DSWD). Instead of attempting to verify his story and making arrangements for the physical and mental care that he needed, the department turned him over to law enforcement officers, who in turn returned him to his original captors, after they issued an arrest warrant. So an obviously damaged and traumatised man was placed back in the hands of his alleged torturers.

The law requires that minors and adults be confined and treated separately. However, even in this respect the DSWD has proven itself unwilling to fulfil its mandate and protect human rights. In the Benguet case, a department spokesperson said in a television interview that it is difficult for the department to transfer the victims to juvenile detention due to the nature of the charges. This outrageous position assumes, without any basis, that there are crimes for which children should be treated as children and others for which they should be treated as adults. It is a blatant denial of the responsibilities of the DSWD, and the Philippines' obligations under the Convention on the Rights of the Child, to which it is also a party. The department's failure to secure the detention of the two juveniles at a separate facility and properly assess the conditions under which the other nine were taken into custody amounts to blatant negligence on its part, and another violation of international law.

The absence of a law on torture means that neither the police nor the DSWD feels beholden to torture victims. The police cannot be charged for having committed torture. The social welfare staff cannot be held liable for their negligence or inaction.

The AHRC supports Senator Aquilino Pimentel's call that the chief of police Gen. Arturo Lumibao conduct an investigation into the victims' allegations. The Police Regional Office of the Cordillera Administrative Region and Provincial Police Office of Benguet must answer the accusations against them. The accused officers should be immediately suspended until an investigation is concluded, and a decision made regarding the filing of charges before quasi-judicial bodies and the courts if probable cause is established.

The police and military in the Philippines will continue to use torture as their primary means of investigation until a law makes their practices illegal, and perpetrators are prosecuted. The constitution and the Convention against Torture will only have meaning in the Philippines when the government recognises its obligations under these laws to treat torturers as criminals. The government's delay in introducing such a law is completely unacceptable and without justification.

The Asian Human Rights Commission again calls on the president of the Philippines to place the passing of a law to criminalise torture among the government's top priorities. Members of parliament too must ensure that this law is passed without delay, so that no more Filipinos are denied the possibility of remedy and redress. The enactment of this law is a precondition to the protection and improvement of all human rights in the Philippines.

Windel Bolinget & others: Constant threats

In January 2006, three human rights defenders in Baguio City, Luzon were facing serious threats.

Joan Carling, a member of the Cordillera People's Alliance, was followed by two suspicious-looking persons riding on a motorcycle while on her way home from the office. On February 10, her car was broken into while parked outside her house, and the lock to her house door also destroyed.

Meanwhile, Windel Bolinget, the alliance's secretary general, and Manny Loste, the Cordillera coordinator of the Bayan Muna party, have also noticed that they have been followed when going home. An attempt was also reportedly made to abduct the wife of the alliance's vice chairperson, Ampi Mangile, but she resisted and escaped.

Earlier, in October 2005 there was an attempted break-in at the alliance's office. The perpetrators cut off the electric supply and phone lines. They were about to enter the office block after destroying the gate's padlock when a member of staff who was sleeping inside the office was awakened by the noise. The perpetrators ran away after they were yelled at. In December, vans with tinted windows were often seen parked near the office, and the security guards received several phone calls warning them to leave.

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VICTIMS:

1. Windel Bolinget
2. Joan Carling
3. Wife of Ampi Mangile
4. Manny Loste

INCIDENT: Intimidation

ALLEGED PERPETRATORS:

Unidentified men

DATE: January 2006

AHRC UA-067-2006

VICTIM:

1. Francis Paraon
2. Herminio Zuniga
3. Enrico Estarez

INCIDENTS:

Intimidation; torture

ALLEGED PERPETRATORS:

24th IB personnel, including
Lt. Col. Reyes, Col. Oliras &
Sgt. Gatos

DATE: 3 November 2005
onwards

AHRC UA-030-2006

Francis Paraon & others:**“If you lie, I can kill you in your house”**

On 3 November 2005, a detachment of the 24th Infantry Battalion (IB) set up on the basketball court beside the Barangay Hall in Sta. Ines, San Miguel, close to the Console Farm where members of the Samahan ng mga Manggagawa ng Console Farm (Samacofa) union work. The purpose of the detachment was reportedly to conduct an anti-insurgency campaign. After the detachment was established, Lieutenant Colonel Reyes, Colonel Oliras and Sergeant Gatos started summoning workers and villagers for questioning.

On November 6, a number of heavily-armed military men went to visit labour leader Enrico Estarez's house. Estarez was not there so the military started questioning his wife Elizabeth and demanded she produce her husband. Later in the evening, Estarez and several members of their union went to the military detachment to clarify matters and asked them about their operation at the farm. About fifty heavily armed soldiers led by Colonel Oliras were present at the time.

While having the meeting, the military took several pictures of Estarez. When he complained, he was told that if he had no wrongdoing then he would not feel uncomfortable. The military asked the group about the “Oust GMA [President Gloria Macapagal-Arroyol]” painting on the Console Farm's wall. The union members and Estarez were pressed to explain why the president was the object of their campaign. Colonel Oliras then requested them to coordinate all their activities with the army.

After the incident, Estarez stopped work, left his family and sought refuge elsewhere, causing disruption to his family life. His wife was constantly visited by the military, threatening her to reveal the location of her husband. On one occasion, soldiers illegally searched her house.

After December 25, all union members became the subject of harassment and frequent “invitations” by the military. All 12 union officers were reportedly placed under daily surveillance.

On December 28 around 8am Francis Paraon and his farm manager, Mario Gelogo, were summoned for questioning. Gelogo left Paraon behind after he spoke with the military. Lieutenant Colonel Reyes allegedly approached Paraon told him, “You know Francis, if you will lie, I can kill you in your house.” Paraon was taken to a small dark room where he saw another five armed military men in plain clothes. One allegedly pointed a gun at him and then slammed it on top of the table where he was sitting. They tried to gather information about the activity of the union and communist rebels, about which he said he knew nothing. When the answers he provided did not satisfy them, one of the interrogators cocked his gun. The military also verbally abused him and threatened to kill him. He was further asked about persons unknown to him, and was questioned about the union contributors and their funds. He told them that the records were in his house, and was taken to his house to get them, then back

to the detachment, where he was further interrogated. He wrote a statement under duress concerning his membership with the union and how he was treated by the military, but they did not accept it. They instead allegedly prepared a fabricated statement and forced Paraon to sign it.

Another victim, Herminio Zuniga, reportedly suffered trauma and stopped speaking to his fellow workers and union members after interrogation.

All the alleged incidents were reported to the national and regional offices of the Commission on Human Rights, but there had been no response by time of documentation.

Haron Abubakar Buisan: A “justifiable degree of force”

On 12 December 2005, at around 6pm Haron Abubakar Buisan was riding on a motorcycle together with three other persons from Maasim, Sarangani, Mindanao when policemen attached to the General Santos City Police Office—some in plain clothes and others wearing black jackets with “SWAT” (Special Weapons and Army Tactics) printed on them— intercepted and arrested them. They did not present any warrant of arrest or inform them of any charges against them. They took the four men to their headquarters in their service vehicle, during which time Buisan was allegedly repeatedly kicked and severely beaten all over his body and face with a stone.

Upon reaching the police headquarters at the Camp Fermin G. Lira, the police released Buisan’s three companions while he was held in custody for three days without charge. He was allegedly tortured into admitting that he is really “Ariel Bansalao”, a man wanted for robbery. He was later transferred to the Pendatun Police Station.

On December 23, Buisan’s family lodged a habeas corpus petition in court. Judge Isaac Alvero Moran of Regional Trial Court Branch 36 reportedly denied the petition and pushed through with the filing of robbery charges and illegal possession of firearms against Buisan, in connection with a bus robbery in Barangay Katangawan, General Santos City on 11 April 2005 (Criminal Case No. 18639). The victim’s family completely denied his involvement, claiming it is a case of wrong identity.

During the hearing, police director Senior Superintendent Alfredo Toroctocon and Judge Moran were seen together with a prosecution witness who reportedly had earlier suffered from a coma and could not speak. The court may have filed the charges against Buisan based on the witness’ facial gestures.

Buisan was remanded to the General Santos City Reformatory Center and his family filed another petition to the court to have him examined by an independent and private physician, which was also denied. The police claimed that Buisan had already been examined by a physician but refused to give evidence to the family. They also refused to turn over his motorcycle, even though it is unconnected with the charges he is facing and therefore not needed as evidence.

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VICTIM:
Haron Abubakar Buisan
INCIDENTS:
Illegal arrest; torture
ALLEGED PERPETRATORS:
Plainclothes personnel of
General Santos City Police
Office and SWAT personnel
DATE: 12 December 2005

AHRC UA-251-2005
UP-007-2006
UP-047-2006
UP-150-2006
UP-186-2006

**“the blind eye
turned to human
rights is holding
us back as a
nation—targeting
individuals
protecting
laborers’ rights is
an unwelcome
throw-back to the
Marcos-era”**

—Eduardo Reyes, UK

Investigators from the Commission on Human Rights regional office (CHR XII) in General Santos City interviewed Buisan on 4 January 2006 at the reformatory centre, but did not inform the family of progress in their enquiries or give other assistance. Buisan’s father, Lamba, was reportedly denied copies of documents related to the case. Nor was any attention paid to the medical or rehabilitation needs of the victim.

On 13 January 2006, the Regional Trial Court Branch 35 postponed the arraignment of Buisan, after finding that his name is indeed different from that on the charge sheet. On January 17 Regional Trial Court Judge Oscar Noel ordered a reinvestigation into the case.

In a letter received by the AHRC dated 10 January 2006, Orlando Casimiro, deputy ombudsman for the Office of the Ombudsman for the Military and other Law Enforcement Office said that their Fact Finding Investigation Bureau would conduct an enquiry into the matter.

In reply to an open letter from the AHRC (AHRC-OL-004-2006; see Appendix III), Senior Superintendent Toroctocon also told the media that any assault on Buisan would be justified, because he had lied. He repeatedly insisted that Buisan and Ariel Bansalao are the same. He made similar claims in a letter to the AHRC, about which the following statement was issued on March 16:

In a letter dated 21 January 2006, the City Director of the General Santos City Police Office (GSCPO), Senior Superintendent Alfredo Toroctocon wrote to the Asian Human Rights Commission (AHRC) to deny allegations by torture victim Haron Abubakar Buisan against his men. Buisan accused Toroctocon’s men of brutally beating him following his arrest on 12 December 2005. While in police custody and being investigated, Buisan was allegedly repeatedly kicked, beaten with a stone and denied access to legal counsel.

Although not referring directly to Buisan’s case, Toroctocon wrote in his letter that a “justifiable degree of force” can be used as part of the police’s Standard Operating Procedure (SOP) to immobilise a person upon his arrest. A reliable source further quoted him in media interviews stating that the harm inflicted upon Buisan was normal because he was a liar. He further claimed the Miranda Doctrine, within which is respect for the suspect’s right to remain silent and to have access to a lawyer, was observed during the victim’s arrest.

Additionally, Toroctocon repeatedly insisted that Buisan and Ariel Bansalao, a person wanted for robbing a bus in April 2005, were the same person. Although the court has yet to rule whether or not the victim’s claims that his arrest was a result of mistaken identity, Toroctocon has already stated publicly that Buisan and Bansalao are one.

Whether Buisan and Bansalao are the same person or not, the AHRC maintains that this does not give authority nor a level of immunity to the arresting officers of the GSCPO to torture the victim. If indeed they have proof of the alleged crime that the victim is supposed to have committed, then the use of torture should still in now way be used. Only the court has the authority to impose punishments on people accused of committing crimes. Any punishment done outside of the court’s order, is an arbitrary use of authority and therefore a serious violation of a person’s constitutional and human rights.

While it is acknowledged that there are certain guidelines regarding the police's Special Operating Procedure (SOP), under no circumstances can the use of force or harm, or indeed the torturing of a person be justified, as is stipulated in domestic law and in international human rights standards. The Bill of Rights of the 1987 Philippine Constitution strictly prohibits the use of torture and the Republic Act 7438 states the many rights of detainees and persons under custodial investigation. Furthermore, the Convention against Torture (CAT), to which the Philippine government has acceded, gives no justification for the use of torture under any circumstances. These rights entitlement can never be compromised.

The manner in which Torotocon is handling the victim's complaint of torture against his men is completely biased and inappropriate. By taking sides and exonerating his men prior to the release of the result of the investigation by the Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices, Torotocon is no longer acting in an objective manner, nor in the professional one, which he should. His failure to impose necessary sanctions and restrictions upon his men, in particular the elements of Special Weapon and Tactics (Swat), despite the standing complaints against them is totally unacceptable.

Allegations of torture against elements of the GSCPO are no longer new. It can be recalled that on 24 April 2002, three persons, namely Jehon Macalinsal, Aron Salah and Abubakar Amilhasan were also tortured by the GSCPO allegedly to force them into admitting an incident of bombing in a mall. Likewise, on 12 December 2004, another five persons were arrested and three of them were subsequently tortured by the GSCPO while being investigated.

To date, none of the policemen from the GSCPO involved in allegedly torturing persons following their arrest have been prosecuted and punished. The investigation into the allegations against them did not reach any conclusive findings nor did it lead to their prosecution in court. The torture victims, meanwhile, have been forced to face trial to charges laid against them by way of torture. The police's repeated abuses point to the failure by higher authorities to hold them accountable for past indiscretions.

Buisan's case is yet another example of the brutal torture and arbitrary use of power by the local police. Not only was he deprived of his constitutional right to have his complaint investigated and the perpetrators prosecuted, but he was also denied appropriate medical and trauma treatment. Although the concerned authorities, in particular the regional Commission on Human Rights (CHR XII) is aware of this case, they have failed to remedy this situation and to afford the victim with the rights he deserves. It is frightening that although the government is aware of the torture victim's present situation they have not been held accountable for their failings and inaction. Evidently, impunity is rife within all areas of the law enforcement system in the Philippines.

With this in mind, we call upon all concerned people to pressure the Philippine government, in particular the House of Representatives and the Senate to consider as a priority the passage of the proposed law against torture. The enactment of a domestic legislation on torture in full conformity with the CAT is a precondition to the protection of human rights in the Philippines. In a country where torture is not treated as a crime, victims are deprived of their constitutional and human rights and are further denied justice when seeking to legally pursue their perpetrators. This practice must be stopped immediately and those responsible for committing torture must be held accountable for their crimes.

“workers should be able to do their jobs without fear of death—stop the murders of trade unionists”

*—Calvin Allen,
Scotland*

Nonetheless, in a resolution dated July 28, the newly-appointed state prosecutor Antonio Tagami only affirmed the resolution to charge Buisan on 23 December 2005 by Regional Trial Court Branch 36, which was in connection with the habeas corpus petition that had been earlier dismissed. However, considering that that decision had already been overtaken by the court's recent order for reinvestigation of the charges against the victim, a full reinvestigation should have been conducted. Instead, Tagami merely quoted the court's resolution and effectively recommended the filing of robbery with homicide charges against the victim without any reconsideration of the extenuating facts. In particular, the victim's allegations that he was brutally tortured while in police custody following his arrest were not given consideration.

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VICTIMS:

1. Eleuterio J. Revollido
2. Mariano Sepnio (killed)

INCIDENTS:

Intimidation; killing

ALLEGED PERPETRATORS:

Military or police intelligence personnel

DATE: Since end 2005

AHRC UA-252-2006

**Rev. Fr. Terry Revollido & others:
Men coming in boots and white vans**

As chairperson of the human rights group Bayan in Pangasinan province of Luzon, Rev. Fr. Eleuterio "Terry" J. Revollido has been subjected to monitoring and harassment by military and police intelligence units.

Towards the end of 2005, Fr. Terry's seminary janitor informed him that he was visited three times by suspicious looking and well-built persons who asked about the activities and personalities of those coming and going at the seminary. Fr. Terry was not in his house on their third visit, but his son recalled that the men entered inside the house by force. According to his son, they were wearing "boots and riding in a white van". Later the seminary assisted the family to construct a steel fence at their house for security.

At the beginning of 2006, one of Fr. Terry's colleagues was allegedly approached by a man who claimed that he was working with the National Intelligence Coordinating Agency and that he would give money for information about the activities of Fr. Terry.

Meanwhile, two members of the seminary have themselves been killed in recent times. Seminary vice chairman Mariano Sepnio was killed on 9 March 2006 by two armed men riding a motorcycle among some who were seen buying cigarettes in a nearby store but who did not remove their helmets. Some others had spent some hours just standing close to the seminary for successive nights. The general secretary, Jose Doton, was also ambushed and killed on 16 May 2006 (see case above).

On another occasion a suspicious-looking man appeared at the seminary and asked for help. Because it was vacation, only a few people were in residence. The man went up to the second floor of the main building and knocked on every door of the staff houses, which was unusual for a man asking for money for the "burial of his brother". On the afternoon of the same day, while waiting for a vehicle in front of the seminary one of the male lecturers saw another man in a L300 Mitsubishi van keenly viewing him from a distance. The vehicle reportedly carried a police logo on the back.

Fr. Rolando de Leon:

Church service ends with bullets instead of coins

Another priest whose work has suffered constant harassment is Fr. Rolando de Leon (50), Roman Catholic Priest of the Diocese of Malolos, Bulacan and Parish Priest of San Andres Apostol Parish, Norzagaray. He is also the spokesperson for the provincial chapter of human rights group Karapatan, Alyansa ng Mamamayan para sa Pantaong Karapatan (Alma, People's Alliance for Human Rights) and socially-oriented church-based groups. He has been monitoring human rights violations and also given support to survivors and their families. He joins fact-finding missions, dialogues with local government officials and leads the filing of complaints to the Provincial Government and the local Commission on Human Rights.

On 30 October 2005, Fr. De Leon received a written death threats and bullets among donations after morning mass in San Andres Apostol Parish Church. Four envelopes among collection bags from the service contained papers each with the message "A warning for you: You're next!" Three of the envelopes also contained one bullet each.

Fr. de Leon recalled that on March 16, a sergeant named Arnaldo Pagala took a picture of him during a protest rally, while pretending to be a photojournalist. He was uncovered and it was later discovered that he had been carrying a .45-calibre pistol. He was taken to the police headquarters in Malolos where he had admitted to being a member of Military Intelligence Group 3, under Northern Luzon Command, based in Camp Servillano Aquino, Tarlac City.

In December 2005 a soldier was seen putting up posters in the main public square of Norzagaray and the adjoining streets and bridges containing a picture of a priest celebrating mass with the hammer-and-sickle logo on the back of his robe. Although the priest was not identified in the poster, it was believed to represent Fr. De Leon as there are only two priests in Norzagaray and the other, his second, had not received any death threats. During the same month, the army stationed a detachment of soldiers in front of the neighbourhood clinic from where they could observe his church.

In March 2006, Fr. De Leon spoke at a press conference about human rights violations in Bulacan that had been documented by the Catholic Church's provincial human rights office in the capital, Malolos. A few days later General Jovito Palparan Jr., military commander of the region at the time, was quoted in the local newspaper Balita as saying that Father de Leon "cannot be trusted because he is a liar".

Moreover, between January and October 2006, the military organised a series of meetings in five towns of the province at which it accused Fr. De Leon of being a communist insurgent. Throughout the year uniformed soldiers came to his convent asking for him but never indicating the reason. Uniformed and armed soldiers also sometimes sit in the church's courtyard.

Getting away with murder

Asian Human Rights Commission, Hong Kong

With gross violations of human rights continuing unabated and avenues for seeking justice and redress completely lacking, the Philippine government's institutions are showing little sign of having the will or capacity to deliver justice. The human rights crisis in the country has worsened during 2006. There are numerous serious cases, in particular the shocking targeted extrajudicial killings of activists, enforced disappearance and torture, being documented almost daily. In fact, these gross violations have already become a subconsciously acceptable way of life for Filipinos. These rights violation cases only represent a fairly well-documented fraction of the reality of human rights—or the lack of—in the country.

While the government claims to have upheld human rights at home and abroad, in reality the victims of violations and their relatives are experiencing the complete opposite. The government's election to two of the United Nations main organs—the Human Rights Council and the Economic and Social Council in May and November respectively—does not exonerate the government from its bleak human rights record. Victims have lost faith in the criminal justice system's vital pillars: the police, prosecution and judiciary. Should they file cases in court and with quasi-judicial bodies, expectations are low concerning the delivery of adequate and prompt justice in most cases.

What can victims expect from the Philippine National Police (PNP) when in fact its personnel are not only entirely incapable of carrying out effective investigations, but some stand accused of having committed—or being accomplices to—these crimes? While the police are on occasion able to identify suspects, make arrests and file charges in court, the results of investigations are frequently challenged or questioned by victims themselves. Police investigators likewise often make premature pronouncements as to the motive of killings, and reject any

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suggestions from the victims' families that may be helpful in the investigation of the case. The police have also adopted a strange definition of what they consider as a "solved" case. Once a case is with the prosecutor, their job is done. What happens after that is someone else's business.

Although the government is a State-party to international human rights covenants and conventions, in particular the International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic Social and Cultural Rights, its actual implementation of their provisions is derisory. Furthermore, the government has failed to implement most of the December 2003 concluding observations of the UN Human Rights Committee regarding the ICCPR. The unabated extrajudicial killings of activists could have been prevented if not completely stopped had the government seriously addressed [the] "lack of appropriate measures to investigate crimes allegedly committed by State security forces and agents," and taken all necessary measures to improve the witness protection programme.

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Widespread extrajudicial killings and links to the military and police

From January to the start of December 2006, the Asian Human Rights Commission (AHRC) documented the cases of 56 victims of extrajudicial killing around country. This is a fraction of the total number that has occurred in recent years. Attacks on human rights defenders, political activists, human rights lawyers, labour leaders, religious leaders, journalists, peasants and others serving the poor and defending human rights have intensified this year, with killings taking place almost daily in recent months.

There are clear patterns before victims are killed: they receive death threats, their names are included in so-called "orders of battle" by the military, they are tagged as either being sympathetic to the left or having "communist" ideologies, and they are subjected to harassment and surveillance. But there are also cases in which the victims had no known enemies and were killed for motives that also remain unknown. Witnesses and the victims' families—including women and children—are also targeted.

Despite mounting pressure on the government from inside the country and abroad, the police have downplayed the killings by stating that they are not a "systematic and widespread" phenomenon. They have also tried to exonerate themselves by putting the blame on the New People's Army for perpetrating the killings against "enemy spies" and "counter-revolutionaries." There is an entrenched bias against groups critical of the government. Instead of acknowledging police incapability to halt the killings, there are attempts to discredit efforts made by human rights groups to document and inform about them.

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The AHRC has reported a number of cases in which members of the military were allegedly involved in the extrajudicial killings and other gross violation of human rights. In particular, retired Major General Jovito Palparan, the former commander of the 7th Infantry Division of the Philippine Army, and his men stand accused of the extrajudicial killing of 61-year-old activist Ofelia Rodriguez (a.k.a. Nanay Perla) of Barangay Divisoria, Mexico, Pampanga on 16 January 2006; the abduction and extrajudicial killing of Allan Ibasan and Dante Salgado on 30 or 31 January 2006 at Sta. Ignacia, Tarlac; the extrajudicial killing of 19-year-old activist Audie Lucero in Barangay Capitangan, Abucay, Bataan on 13 February 2006; the forced disappearance of Reynaldo Manalo (32) and Raymond Manalo (22) of Barangay Bohol na Mangga, San Ildefonso, Bulacan on 14 February 2006; the forced disappearance of labour leader Rogelio Concepcion (36) in Barangay Mataas na Parang, San Ildefonso, Bulacan on 6 March 2006; and, the forced disappearance of 24-year-old activist Ronald Intal of Barangay Asturias, Tarlac City on 3 April 2006.

None of these allegations against Major General Palparan and his men have been thoroughly investigated. The police instead exonerated him and his men even before subjecting them to investigations. While the victims and families of the dead are living in enormous fear, Major General Palparan meanwhile is receiving commendations from President Gloria Macapagal-Arroyo herself. The president has thereby already exonerated Major General Palparan of gross abuses even before any impartial investigation, effective prosecution or court decision. The president also allegedly attempted to provide Major General Palparan with de facto immunity by nominating him for appointment as deputy director for counter-insurgency in the National Security Council.

Flawed or inexistent investigations by the police

Investigations conducted by the PNP into extrajudicial killings are either completely inconclusive or unsatisfactory. The police system lacks the ability to conduct forensic investigations and professionally gather evidence upon which to build a case that will stand up in court. It is also unwilling to properly investigate. For example, during an interview conducted by an international fact-finding team, General Avelino I Razon Jr., the head of the PNP's Task Force Usig assigned to inquire into the killings, denied that any members of the armed forces or the police have carried out politically-motivated killings. Furthermore, the current structure and operation of the Task Force causes great concern, as it shares information and intelligence with the army and other authorities, which severely undermines its independence and effectiveness.

Take the case of development activists George Vigo and his wife Maricel who were killed in Kidapawan City on 19 June 2006. According to Maricel's younger sister, Maribel, the manner of a task force investigation was not thorough and was completed too quickly. The findings were also contrary to another report by local

police who initially conducted the investigation. One of the victims' relatives was made to sign an affidavit that the police had prepared, the content of which was not properly explained to her. It was later found that the affidavit had been used by the police to file the case in court. The version given by Vigo's relatives concerning the motive of the killing was completely ignored.

The police were also quick to declare the 3 October 2006 brutal killing of Bishop Alberto Ramento, a prominent human rights defender, as a case of robbery and homicide. However, Bishop Ramento's family and his fellow clergy believe that his murder was methodically planned and politically motivated. Bishop Ramento himself confirmed having received several death threats before he was killed. He once told his family, "I know they are going to kill me next. But never will I abandon my duty to God and my ministry to the people." The police investigators claimed there were missing belongings at Bishop Ramento's quarters, an indication of robbery. But Bishop Ramento's family and a human rights group that conducted a separate investigation denied the police's claim that robbery was the motive of the killing. They established that the belongings had already been taken out from Bishop Ramento's convent several days before he was attacked. The police did not consider this version. They declared the case solved based on their findings.

It is the police investigators' duty to determine all aspects of a killing and to identify the perpetrators by considering all information available to them. Only after they have exhausted all leads in an investigation should they produce their findings and make any pronouncements (as long as these remain non-prejudicial to the prosecution of the suspect). To reject information coming from the families of the dead is totally unacceptable, and indicates a deep-rooted bias against victims. The police are themselves instruments to deny justice and redress. Without rigorous police reforms, the policing system in the Philippines will not be made effective.

Delays in resolving cases by the ombudsman

Promptness in resolving cases of gross human rights violations is essential. Often unnecessary delays place victims and witnesses at serious risk, while giving the accused plenty of time to counterattack. In the Philippines, such delays compound the problems caused by non-existent protection mechanisms.

Under existing procedure, before any complaint is filed in court against a state officer the result of investigation by the public prosecutor should be submitted to the Office of the Ombudsman for the Military and Other Law Enforcement Office, a quasi-judicial body dealing with complaints against police and military officials, for review and recommendation. The ombudsman has failed to resolve cases in a timely manner, including whether or not murder charges should be filed against two military lieutenants and several others attached to the 25th Infantry

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Battalion over the alleged killing of three farmers and wounding of three others in Davao del Sur, Mindanao on 8 February 2005. Almost two years on, the case against them cannot be filed in court as the ombudsman has not finished deliberations.

The ombudsman has also failed to promptly resolve cases concerning allegations of torture, illegal arrest and detention. No substantial progress has been made concerning the six policemen accused of brutally torturing eleven persons, including two minors, in Buguias, Benguet on 14 February 2006. The ombudsman's assurances that the alleged torture of Haron Abubakar Buisan by policemen in General Santos City on 12 December 2005 would be looked into also have produced no result. No investigations were conducted or charges have been brought against the perpetrators. The torture victim remains in jail and is facing false charges against him as a result of evidence allegedly collected through the use of torture.

Proclamations, orders and “partly unconstitutional” policies

Excessive violations of civil and political rights have also occurred following the declaration and issuance of Presidential Proclamation 1017, General Order No. 5 and the Calibrated Pre-emptive Response policy. The former placed the entire Philippines under a “State of National Emergency” while the general order was pursuant to it, directing the Armed Forces of the Philippines to “maintain public peace, order and safety and to prevent and suppress lawless violence”.

When the proclamation was made on 24 February 2006, there were illegal arrests and detentions, violent dispersal of protestors and fabricated charges filed against those critical of the government, as well as an illegal raid on a newspaper without a search warrant. One of those illegally arrested—Anakpawis Representative Crispin Beltran—remains in detention and is still facing rebellion charges. The police arrested him with a 21 year-old warrant on charges that had long been dismissed by the court.

After petitions were filed questioning the legality of the actions, the Supreme Court ruled that,

The provisions of PP 1017 commanding the AFP [Armed Forces of the Philippines] to enforce laws not related to lawless violence, as well as decrees promulgated by the President, are declared UNCONSTITUTIONAL...

In addition, it held that the arrest and dispersal of persons in the rallies, “in the absence of proof that these petitioners were committing acts constituting lawless violence, invasion or rebellion” and the search of the newspaper premises were declared unconstitutional, as well as provisions under the response policy that freed law-enforcement officers from having to exercise maximum restraint.

While the constitution guarantees that “no search warrant or warrant of arrest shall issue except upon probable cause”, police and military men on most occasions arbitrarily and excessively violate this provision with impunity. Arrests and searches in the absence of a lawful court order are common. Often the police, as well as the military, effect arrest and search without warrants, justified as part of a “hot pursuit” operation. In practice, the police and military decide when an arrest and search can be made without a warrant despite not having any legal basis for doing so.

“arrests & searches in the absence of a lawful court order are common”

For instance, when development worker Uztadz Kusain Abedin was arrested and subsequently detained on August 3 in Cotabato City, the arresting military personnel did not have arrest warrants with them. They detained the victim on the basis of an SMS they received from an informant. Had Abedin’s relatives and lawyer not intervened the soldiers would have not released him without charges. Likewise, Wenifreda Marigondon was arrested without a warrant on 25 November 2005 in Plaridel, Quezon. She gave birth at the military hospital the following month. It was not until the first week of April 2006 that she was taken to the Regional Trial Court, Branch 62, for the preliminary hearing of her case. Only then did she find out that she was charged with rebellion.

Similarly, eight workers who were illegally arrested and detained in Rosario, Cavite on 28 September 2006 had their personal belongings searched without warrants. Only upon arrival at the police station did the arresting officers try to figure out what charges could be filed against them. The arrest also did not meet the requirements for an arrest without warrant under Rule 113 of the 1985 Rules of Criminal Procedure, which requires that there be an attempted offence or an actual offence occurring or having occurred, or where the person is an escaped convict. This was not the case also when Regional Intelligence and Investigation Division personnel allegedly illegally searched and harassed members of the convent of Contemplative Sisters of the Good Shepherds in Butuan City on 1 November 2006 when they entered the premises without warrants and heavily armed, having reportedly gone in to the wrong building by mistake.

Under section 16 of the Constitution of the Philippines, “All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.” Section 7 of the Speedy Trial Act of 1998 (Republic Act 8493) stipulates that the time limit on the length of period any accused should be arraigned and subjected to trial is clearly prescribed:

The arraignment of an accused shall be held within thirty (30) days from the filing of the information, or from the date the accused has appeared before the justice, judge or court in which the charge is pending, whichever date last occurs.

Nonetheless, the courts are failing to comply with this obligation. One example is the case of three torture victims Jejhon Macalinsal, Aron Salah and Abubakar Amilhasan. A local court commenced their trial only on 9 August 2005, over two years after they were arraigned on 26 February 2003. The reasons for the delays were variously given as frequent absences or seminars being attended by the presiding judge, the appointment of a new judge, a seminar of lawyers and the absence of a court stenographer. None of these fall under exclusions prescribed by section 10 of the Speedy Trial Act. On 25 October 2006 a police officer set to testify at the scheduled hearing at the Municipal Trial Court, Branch II failed to appear for a second time, because he had been transferred to another station assignment.

Torture and inhumane treatment are prohibited under the constitution, as stipulated by the Bill of Rights. But the failure of the government to enact enabling laws in order to ensure that these rights are protected has denied victims any possibilities of seeking justice and redress for ill-treatment and torture by the police and military such as electric shock, beatings, food and sleep deprivation, sexual humiliation, lengthy incommunicado or solitary confinement, harassment, intimidation, extraneous exercises, and death threats. The police and military employ torture with impunity and without fear of prosecution.

Jejhon Macalinsal (L) & his co-accused: Victims of alleged torture & court delay



Take the case of 11 persons, two of them minors, who were brutally tortured following their arrest in Buguias, Benguet on February 12. They were beaten on different parts of their bodies, exposed under the heat of the sun and had their hands tied behind their backs. They were also blindfolded, beaten on the genitals and threatened with death. Some were thrown into a pit and had soil, garbage and other matter dumped over their heads. They were electrocuted, stepped on and had their fingers squeezed with bullets inserted between them. Others were suffocated with plastic bags or had their heads forced into pails of water. Buckets were also hung from their heads and water was poured into them. They were forced to strip naked, at which point they had freezing water sprayed on them, all in an effort to have them admit that they were rebels.

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Armed village militia have also resorted to brutal beatings while conducting “arrests”. On 13 August 2006, 16-year-old Don Bon Diego Ramos was severely beaten by a militia in Pasig City. The boy was on his way home after watching a concert when the perpetrators attacked and arrested him. They falsely accused him of throwing stones and creating a disturbance. When the boy asked, “Why are you arresting me?” he was allegedly repeatedly beaten with a wooden club.

No compensation

Republic Act 7309, an Act creating a Board of Claims under the Department of Justice for victims of unjust imprisonment or detention and victims of violent crimes, in principle establishes a means for compensation in its section 3(d) for “any person who is a victim of violent crimes [including those] committed with malice which resulted in death or serious physical and/or psychological injuries, permanent incapacity or disability, insanity, abortion, serious trauma, or committed with torture, cruelty or barbarity”.

The AHRC is not aware of any case where compensation has been awarded. For example, despite repeated appeals, no compensation, medical attention or trauma treatment were afforded to torture victim Haron Abubakar Buisan who is still detained in General Santos City. And although the Commission on Human Rights of the Philippines has decided to take up the complaint of torture victims Jejhon Macalinsal and his two companions, it has not issued recommendations for them to receive appropriate compensation and rehabilitation.

Families of the disappeared

There is also inadequate help for the families of disappeared victims. Reynaldo Manalo and his brother Raymond were forcibly abducted and subsequently disappeared on 14 February 2006 in San Ildefonso, Bulacan. Although relatives have tried to seek help from the military to locate the victims—despite having suspicions that the military could be involved—they were only told “not to worry and that they would coordinate with those

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[personnel] who took custody of the Manalo brothers”. The victims have not been seen since. Their relatives have also gone into hiding, fearing for their lives.

In another case the wife of labour leader Rogelio Concepcion, who was forcibly abducted and disappeared on 6 March 2006, is living in total insecurity. After Rogelio’s abduction, Marissa and her family noticed the suspicious movement of persons not known to them, who are believed to be closely watching them. Despite the high security risk that she and her family are facing, she has not received any protection or assistance. There has also been no help from the authorities to locate her husband, who has not been seen since he was abducted. As a result, the family lives in permanent fear.

There is also the case of journalist and activist Joey Estriber, who was abducted and forcibly disappeared on 3 March 2006. At around 6:20 pm, Estriber was on his way home, when he was dragged by four armed men towards a tinted maroon van parked nearby. As in previous cases, his whereabouts and fate remain unknown and his family has had difficulty finding assistance from government agencies.

Disappeared victims’ families can file habeas corpus petitions, but cannot indict perpetrators in court for the crime of disappearance despite strong circumstantial evidence showing the involvement of either the military or the police. Take the case of two student activists Sherlyn Cadapan and Karen Empeño and peasant Manuel Merino, who were abducted on 26 June 2006 in Hagonoy, Bulacan. Cadapan was pregnant at the time. Although the Supreme Court has granted the victims’ families petition for habeas corpus, requiring retired Major General Palparan and others to produce them in court, no progress has been made regarding their whereabouts.

In August and October 2006, six people were forcibly abducted by unknown persons and disappeared in separate incidents in Mindanao. One of them was later found dead with brutal torture marks on his body, while another was freed by his captors. Sitti, the wife of disappeared victim Cadir Malaydan, was with her husband when he was forcibly abducted by armed men in Monkayo, Compostela Valley on October 19. There has been no police investigation and no assistance for her to locate her husband. Another victim, Ustadz Habib Darupo, was released a day after he was abducted in Banaybanay, Davao Oriental on October 24, but only after being tortured by his captors. After his release, no protection was afforded to him and no assistance was given to help him recover from the extreme trauma that he experienced. Again, no effective investigation was conducted to identify the perpetrators. And although Ali Barabato’s body was found three days after he was abducted in Davao City on August 28, the whereabouts of his two companions remain unknown.

The Philippines is a signatory to the 1992 Declaration on the Protection of All Persons from Enforced Disappearance. In view of the fact that state agents and others acting on their behalf in the Philippines are known to routinely abduct and disappear persons, there should have been a far greater sense of urgency in enacting a domestic law on forced disappearances. However, House Bill 1556, an Act Defining and Penalizing the Crime of Enforced or Involuntary Disappearance, is yet to be approved.

Conclusion

The ongoing human rights crisis in the Philippines indicates a collapse of the rule of law in the country. While the government claims to uphold human rights and democracy before the international community, including the United Nations, at home there is no possibility for most victims of gross abuses of human rights to get justice and redress. The culture of impunity, including state and non-state actors, is so rife that victims have already lost faith in the government's criminal justice system. There is extreme fear amongst the victims that exacerbates the deep-rooted culture of silence and unwillingness to fight back, in the country. Those victims who dare to fight back or even to encourage and serve others to assert their own rights are subjected to torture, death threats, disappearance or extrajudicial execution.

Although the abolition of the death penalty in April indicates in theory a respect for the right to life, this has no meaning to the victims of extrajudicial killings and their families. The government is failing to effectively address these killings.

Prior to its election to the UN Human Rights Council, the government of the Philippines pledged to uphold human rights to "the highest norms and standards". This must seem like a sick joke for most of the country's people. There is a need for a rigorous international campaign to deepen understanding of what is actually going on in the country. Unless false claims and pretences are confronted and dispelled, the culture of impunity and attacks on human rights and democracy will only continue.

“the culture of impunity is so rife that victims have lost faith in the criminal justice system”

Six suggestions to improve the criminal justice system of the Philippines

Asian Legal Resource Centre, Hong Kong

The Asian Legal Resource Centre and Asian Human Rights Commission call for the following steps to be taken as top priorities in order to address the grave problems afflicting the criminal justice system of the Philippines, which deeply undermine the possibility of all persons in the country obtaining their fundamental human rights and cause a loss of respect and expectations in the role of institutions for the rule of law in the Philippines and the functioning of the state itself.

1. An independent commission be established with the guidance and technical support of key United Nations agencies and other international bodies, comprising of senior judges, competent jurists, reputed academics and representatives from civil society, including human rights organizations, to undertake a comprehensive review of the country's criminal justice system, and specifically the investigation, prosecution and adjudication of cases, by way of public consultations and other relevant methods, in order to identify defects and hindrances and make full recommendations to the government and notify the public of the same, in full, within six months.

2. In the interim, both the Department of Justice and Philippine National Police clarify and widely publicise a rational, accessible and comprehensive system of witness and victim protection in accordance with the Witness Protection, Security and Benefit Act (RA 6981), together with an explicit set of operational guidelines for police that clearly stipulate officers' duties to provide protection and spell out the sanctions that will be taken against officers failing to comply. A full review of the implementation and limitations of the Witness Protection, Security and Benefit Act must be included as part of the work of the abovementioned independent commission.

3. The strengthening of agencies for the receipt, investigation and prosecution of complaints against police and military officials to ensure that grievances by the victims are properly addressed and acted upon and that complainants obtain adequate protection, and interim measures immediately introduced by which to hold police accountable, through an explicit set of sanctions, for cases that have been filed in court that are found to have been deliberately fabricated.

4. The use of labelling by the armed forces and other agencies be brought to an immediate end by an explicit directive from the government that the practice is prohibited and that officials found responsible for such practices will be removed from their positions and investigated for criminal liability in subsequent killings, attempted killings or other incidents that may have occurred in consequence.

5. The findings of the Melo Commission be followed by immediate investigations and prosecutions of persons identified as responsible for extrajudicial killings and other abuses, whether directly or by virtue of command responsibility.

6. The enactment of domestic laws and establishing of implementing agencies in accordance with the requirements of the International Covenant on Civil and Political Rights and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, signing of the new International Convention for the Protection of All Persons from Enforced Disappearance, implementation of the recommendations of the UN Human Rights Committee of December 2003 and issuance of a standing invitation to all United Nations human rights experts to visit the country.

Appendix I: Statement of UN Special Rapporteur on extrajudicial killings after visit to the Philippines

Manila, 21 February 2007

I have spent the past ten days in the Philippines at the invitation of the Government in order to inquire into the phenomenon of extrajudicial executions. I am very grateful to the Government for the unqualified cooperation extended to me. During my stay here I have met with virtually all of the relevant senior officials of Government. They include the President, the Executive Secretary, the National Security Adviser, the Secretaries for Defence, Justice, DILG and the Peace Process. I have also met with a significant number of members of Congress on different sides of the political spectrum, the Chief Justice, the Chief of Staff of the Armed Forces of the Philippines (AFP), the Chair of the Human Rights Commission, the Ombudsman, the members of both sides of the Joint Monitoring Committee, and representatives of the MNLF and MILF. Of particular relevance to my specific concerns, I also met with Task Force Usig, and with the Melo Commission, and I have received the complete dossier compiled by TF Usig, as well as the report of the Melo Commission, the responses to its findings by the AFP and by retired Maj-Gen Palparan. I have also visited Baguio and Davao and met with the regional Human Rights Commission offices, local PNP and AFP commanders, and the Mayor of Davao, among others.

Equally importantly, roughly half of my time here was devoted to meetings with representatives of civil society, in Manila, Baguio, and Davao. Through their extremely valuable contributions in the form of documentation and detailed testimony I have learned a great deal.

Let me begin by acknowledging several important elements. The first is that the Government's invitation to visit reflects a clear recognition of the gravity of the problem, a willingness to

permit outside scrutiny, and a very welcome preparedness to engage on this issue. The assurances that I received from the President, in particular, were very encouraging.

Second, I note that my visit takes place within the context of a counter-insurgency operation which takes place on a range of fronts, and I do not in any way underestimate the resulting challenges facing for the Government and the AFP. Third, I wish to clarify that my formal role is to report to the UN Human Rights Council and to the Government on the situation I have found. I consider that the very fact of my visit has already begun the process of acting as a catalyst to deeper reflection on these issues both within the national and international settings. Finally, I must emphasise that the present statement is only designed to give a general indication of some, but by no means all, of the issues to be addressed, and the recommendations put forward, in my final report. I expect that will be available sometime within the next three months.

Sources of information

The first major challenge for my mission was to obtain detailed and well supported information. I have been surprised by both the amount and the quality of information provided to me. Most key Government agencies are organized and systematic in much of their data collection and classification. Similarly, Philippines civil society organizations are generally sophisticated and professional. I sought, and obtained, meetings across the entire political spectrum. I leave the Philippines with a wealth of information to be processed in the preparation of my final report.

But the question has still been posed as to whether the information provided to me by either all, or at least certain, local NGO groups can be considered reliable. The word 'propaganda' was used by many of my interlocutors. What I took them to mean was that the overriding goal of the relevant groups in raising extrajudicial execution questions was to gain political advantage in the context of a broader battle for public opinion and power, and that the human rights dimensions were secondary at best. Some went further to suggest that many of the cases were fabricated, or at least trumped up, to look more serious than they are.

I consider it essential to respond to these concerns immediately. First, there is inevitably a propaganda element in such allegations. The aim is to win public sympathy and to discredit other actors. But the existence of a propaganda dimension does not, in itself, destroy the credibility of the information and allegations. I would insist, instead, on the need to apply several tests relating to credibility. First, is it only NGOs from one part of the political spectrum who are making these allegations? The answer is clearly 'no'. Human rights groups in the Philippines range across the entire spectrum in terms of their political sympathies, but I met no groups who challenged the basic fact that large numbers of extrajudicial executions are

taking place, even if they disagreed on precise figures. Second, how compelling is the actual information presented? I found there was considerable variation ranging from submissions which were entirely credible and contextually aware all the way down to some which struck me as superficial and dubious. But the great majority are closer to the top of that spectrum than to the bottom. Third, has the information proved credible under 'cross-examination'. My colleagues and I heard a large number of cases in depth and we probed the stories presented to us in order to ascertain their accuracy and the broader context.

As a result, I believe that I have gathered a huge amount of data and certainly much more than has been made available to any one of the major national inquiries.

Extent of my focus

My focus goes well beyond that adopted by either TF Usig or the Melo Commission, both of which are concerned essentially with political and media killings. Those specific killings are, in many ways, a symptom of a much more extensive problem and we should not permit our focus to be limited artificially. The TF Usig/Melo scope of inquiry is inappropriate for me for several reasons:

(a) The approach is essentially reactive. It is not based on an original assessment of what is going on in the country at large, but rather on what a limited range of civil society organisations report. As a result, the focus then is often shifted (unhelpfully) to the orientation of the civil society organisation, the quality of the documentation in particular cases, etc.;

(b) Many killings are not reported, or not pursued, and for good reason; and

(c) A significant proportion of acknowledged cases of 'disappearances' involve individuals who have been killed but who are not reflected in the figures.

How many have been killed?

The numbers game is especially unproductive, although a source of endless fascination. Is it 25, 100, or 800? I don't have a figure. But I am certain that the number is high enough to be distressing. Even more importantly, numbers are not what count. The impact of even a limited number of killings of the type alleged is corrosive in many ways. It intimidates vast numbers of civil society actors, it sends a message of vulnerability to all but the most well connected, and it severely undermines the political discourse which is central to a resolution of the problems confronting this country.

Permit me to make a brief comment on the term 'unexplained killings', which is used by officials and which I consider to be inapt and misleading. It may be appropriate in the context of a judicial process but human rights inquiries are more broad-ranging and one does not have to wait for a court to secure a

conviction before one can conclude that human rights violations are occurring. The term 'extrajudicial killings' which has a long pedigree is far more accurate and should be used.

Typology

It may help to specify the types of killing which are of particular concern in the Philippines:

- Killings by military and police, and by the NPA or other groups, in course of counter-insurgency. To the extent that such killings take place in conformity with the rules of international humanitarian law they fall outside my mandate.
- Killings not in the course of any armed engagement but in pursuit of a specific counter-insurgency operation in the field.
- Killings, whether attributed to the military, the police, or private actors, of activists associated with leftist groups and usually deemed or assumed to be covertly assisting CPP-NPA-NDF. Private actors include hired thugs in the pay of politicians, landowners, corporate interests, and others.
- Vigilante, or death squad, killings.
- Killings of journalists and other media persons.
- 'Ordinary' murders facilitated by the sense of impunity that exists.

Response by the Government

The response of Government to the crisis of extrajudicial executions varies dramatically. There has been a welcome acknowledgement of the seriousness of the problem at the very top. At the executive level the messages have been very mixed and often unsatisfactory. And at the operational level, the allegations have too often been met with a response of incredulity, mixed with offence.

Explanations proffered

When I have sought explanations of the killings I have received a range of answers.

(i) The allegations are essentially propaganda. I have addressed this dimension already.

(ii) The allegations are fabricated. Much importance was attached to two persons who had been listed as killed, but who were presented to me alive. Two errors, in circumstances which might partly explain the mistakes, do very little to discredit the vast number of remaining allegations.

(iii) The theory that the 'correct, accurate, and truthful' reason for the recent rise in killings lies in purges committed by the CPP/NPA. This theory was relentlessly pushed by the AFP and many of my Government interlocutors. But we must distinguish the number of 1,227 cited by the military from the limited number of cases in which the CPP/NPA have

acknowledged, indeed boasted, of killings. While such cases have certainly occurred, even those most concerned about them, such as members of Akbayan, have suggested to me that they could not amount to even 10 per cent of the total killings. The evidence offered by the military in support of this theory is especially unconvincing. Human rights organizations have documented very few such cases. The AFP relies instead on figures and trends relating to the purges of the late 1980s, and on an alleged CPP/NPA document captured in May 2006 describing Operation Bushfire. In the absence of much stronger supporting evidence this particular document bears all the hallmarks of a fabrication and cannot be taken as evidence of anything other than disinformation.

(iv) Some killings may have been attributable to the AFP, but they were committed by rogue elements. There is little doubt that some such killings have been committed. The AFP needs to give us precise details and to indicate what investigations and prosecutions have been undertaken in response. But, in any event, the rogue element theory does not explain or even address the central questions with which we are concerned.

Some major challenges for the future

(a) Acknowledgement by the AFP

The AFP remains in a state of almost total denial (as its official response to the Melo Report amply demonstrates) of its need to respond effectively and authentically to the significant number of killings which have been convincingly attributed to them. The President needs to persuade the military that its reputation and effectiveness will be considerably enhanced, rather than undermined, by acknowledging the facts and taking genuine steps to investigate. When the Chief of the AFP contents himself with telephoning Maj-Gen Palparan three times in order to satisfy himself that the persistent and extensive allegations against the General were entirely unfounded, rather than launching a thorough internal investigation, it is clear that there is still a very long way to go.

(b) Moving beyond the Melo Commission

It is not for me to evaluate the Melo Report. That is for the people of the Philippines to do. The President showed good faith in responding to allegations by setting up an independent commission. But the political and other capital that should have followed is being slowly but surely drained away by the refusal to publish the report. The justifications given are unconvincing. The report was never intended to be preliminary or interim. The need to get 'leftists' to testify is no reason to withhold a report which in some ways at least vindicates their claims. And extending a Commission whose composition has never succeeded in winning full cooperation seems unlikely to cure the problems still perceived by those groups. Immediate release of the report is an essential first step.

(c) The need to restore accountability

The focus on TF Usig and Melo is insufficient. The enduring and much larger challenge is to restore the various accountability mechanisms that the Philippines Constitution and Congress have put in place over the years, too many of which have been systematically drained of their force in recent years. I will go into detail in my final report, but suffice it to note for present purposes that Executive Order 464, and its replacement, Memorandum Circular 108, undermine significantly the capacity of Congress to hold the executive to account in any meaningful way.

(d) Witness protection

The vital flaw which undermines the utility of much of the judicial system is the problem of virtual impunity that prevails. This, in turn, is built upon the rampant problem of witness vulnerability. The present message is that if you want to preserve your life expectancy, don't act as a witness in a criminal prosecution for killing. Witnesses are systematically intimidated and harassed. In a relatively poor society, in which there is heavy dependence on community and very limited real geographical mobility, witnesses are uniquely vulnerable when the forces accused of killings are all too often those, or are linked to those, who are charged with ensuring their security. The WPP is impressive—on paper. In practice, however, it is deeply flawed and would seem only to be truly effective in a very limited number of cases. The result, as one expert suggested to me, is that 8 out of 10 strong cases, or 80 per cent fail to move from the initial investigation to the actual prosecution stage.

(e) Acceptance of the need to provide legitimate political space for leftist groups

At the national level, there has been a definitive abandonment of President Ramos' strategy of reconciliation. This might be termed the Sinn Fein strategy. It involves the creation of an opening—the party-list system—for leftist groups to enter the democratic political system, while at the same time acknowledging that some of those groups remain very sympathetic to the armed struggle being waged by illegal groups (the IRA in the Irish case, or the NPA in the Philippines case). The goal is to provide an incentive for such groups to enter mainstream politics and to see that path as their best option.

Neither the party-list system nor the repeal of the Anti-Subversion Act has been reversed by Congress. But, the executive branch, openly and enthusiastically aided by the military, has worked resolutely to circumvent the spirit of these legislative decisions by trying to impede the work of the party-list groups and to put in question their right to operate freely. The idea is not to destroy the NPA but to eliminate organizations that support many of its goals and do not actively disown its means. While non-violent in conception, there are cases in which it has,

certainly at the local level, spilled over into decisions to extrajudicially execute those who cannot be reached by legal process.

(f) Re-evaluate problematic aspects of counter-insurgency strategy

The increase in extrajudicial executions in recent years is attributable, at least in part, to a shift in counterinsurgency strategy that occurred in some areas, reflecting the considerable regional variation in the strategies employed, especially with respect to the civilian population. In some areas, an appeal to hearts-and-minds is combined with an attempt to vilify left-leaning organizations and to intimidate leaders of such organizations. In some instances, such intimidation escalates into extrajudicial execution. This is a grave and serious problem and one which I intend to examine in detail in my final report.

Conclusion

The Philippines remains an example to all of us in terms of the peaceful ending of martial law by the People's Revolution, and the adoption of a Constitution reflecting a powerful commitment to ensure respect for human rights. The various measures ordered by the President in response to Melo constitute important first steps, but there is a huge amount that remains to be done.

— *Professor Philip Alston, Special Rapporteur of the United Nations Human Rights Council on extrajudicial, summary or arbitrary executions*

Appendix II: The Melo Commission Report

INDEPENDENT COMMISSION TO ADDRESS MEDIA AND ACTIVIST KILLINGS

Created under Administrative Order No. 157 (s. 2006)

R E P O R T (extracts & without citations)

INTRODUCTION

There is no shirking the fact that people, almost all of them activists or militants, have been killed. There is no denying the reality that militant citizens have been liquidated. The numbers vary. Task Force Usig of the Philippine National Police listed down one hundred eleven (111) killings, which has since increased to one hundred thirty six (136). Amnesty International, in its official website, mentions 244 victims. The group Karapatan is said to have counted at least 724 killings. Unfortunately, none of the so-called activist/militant groups, be they outright communist or satellite groups, came forward if only to inform the Commission of the numbers of their members who have become victims of extrajudicial killings. Be this as it may, the number, whether at a low of 111 according to Task Force Usig, or a high of 724 of Karapatan, is one too many.

It is said by those who would justify these killings that the victims are enemies of the State. Verily, one's attention may be called to the screams in death of the victims of the Communist Party of the Philippines, its armed group the New People's Army ("NPA"), and its front organizations. Surely, ever present is the only too human feeling of wanting to see one's enemies and oppressors bite the dust, so to speak, struck down on the quick based on one's own personal concept of justice or on the military's unilateral assessment that they are enemies of the State.

This may well be so, but it should be carefully noted that the victims, of which this Commission is concerned, were all non-combatants. They were not killed in armed clashes or engagements with the military. They were killed, it is said, by motorcycle-riding hooded killers in assassination manner.

Government agencies hardly need reminding that in a democratic and civilized state such as ours, one must uphold and observe the rule of law, the principles of justice, and the system and rules of how it is dispensed – from investigation to arrest, to inquest, and to trial. The system may be far from perfect, giving rise to the temptation to take short-cuts. But precisely, short-cuts are in defiance of the system of impartial justice. The rules must be observed at all times.

...

A. Factual backdrop

In the wake of a disturbing wave of unexplained killings of civilian activists and media personnel, President Gloria Macapagal Arroyo issued Administrative Order No. 157 entitled "Creating an Independent Commission to Address Media and Activist Killings." The Commission was given the task to prioritize and focus investigation of media and activist killings and thereafter to submit recommendations to the President on policies and actions, including prosecution and legislative proposals, if any, aimed at eradicating the root causes of the extrajudicial killings and breaking such cycle of violence. Necessarily, the Commission's first and foremost task was to determine the root cause of the said killings, and if possible, the persons or interest group responsible therefor.

The Commission was not created to solve the killings, or any of them, by pinpointing the actual gunmen involved. Neither will the Commission prosecute who it believes are the persons behind such killings. Those tasks, which would take years and an army of investigators and prosecutors to finish, would be best left to the regularly constituted law enforcement authorities and the Department of Justice.

B. Procedure

...

The Commission first called the Philippine National Police, which sent Gen. Avelino Razon, Deputy Director of the PNP, together with his retinue. Gen. Razon is likewise the head of Task Force Usig, which was created to investigate, solve, and otherwise handle the same extrajudicial killings, and it was in his capacity as such head that he appeared before the Commission. The Commission was likewise informed that Task Force Usig was instructed by the President herself to cooperate fully with the Commission. Gen. Razon presented a comprehensive report on the activities of Task Force Usig and their views and opinions on the suspects behind the killings.

Thereafter, the Commission called on the Armed Forces of the Philippines, which was represented by the Chief of Staff Gen. Hermogenes Esperon, who gave a brief report or statement on the killings, and answered various questions propounded by the Commission. The next witness was Retired Gen. Jovito S. Palparan, Jr., who was confronted for his image and reputation as the prime suspect behind the extrajudicial killings.

The Commission then extended an invitation to the Commission on Human Rights, which was represented by Chairperson Purificacion Quisumbing.

Thereafter, the Commission held hearings in Bacolod, Negros Occidental, and in Davao City on the alleged killings of peasants and non-governmental organization workers suspected to be perpetrated by hired goons of landowners. The Commission noted that these killings are within its mandate to look into, considering that the victims were farmers or peasant activists.

I. UNDISPUTED FACTS

From the proceedings, it became plain that certain matters and facts were well-nigh undisputed. Although not necessarily proven in such a manner that would be binding in a court of law, these facts are nevertheless accepted as such by all concerned and, therefore, may be presumed to be true.

The first undisputed fact is that there indeed have been extralegal killings, and that the victims were almost entirely members of activist groups or were media personnel. The numbers of victims and the theories behind their deaths vary between the versions of the PNP and the military, on one hand, and Karapatan and Amnesty International, on the other. However, it is undisputed that there were killings.

More importantly, it is also undisputed that there was a rise in the number of killings to an extent sufficient to alarm activist groups, non-governmental organizations, the PNP, and, in fact, the President herself. Similarly expressing concern was the international community, especially the European Union. The military and police authorities likewise agree with the activist groups that there was even a rise in the extrajudicial killings of activists and militants between 2001 and 2006 as compared to a similar period prior thereto.

Likewise without dispute is the manner of the killings. From the reports of Task Force Usig, victims were generally unarmed, alone, or in small groups, and were gunned down by two or more masked or hooded assailants, oftentimes riding motorcycles. The assailants usually surprised the victims in public places or their homes, and made quick getaways. It is undisputed that the killings subject of the investigation did not occur during military engagements or firefights. These were assassination or ambush type killings, professional hits carried out quickly and with the assailants escaping with impunity.

It is also undisputed that the PNP has not made much headway in solving these killings. Out of the 111 killings of activists acknowledged by the PNP, only 37 had been forwarded to the proper prosecutor's office for preliminary investigation or filed in court. Obviously, the reason for this poor score was the refusal of Karapatan and its allied groups to come forward and cooperate. Lastly, it is clear that the rise in killings of such activists whom the military brands as enemies of the state was to such an extent that it could not possibly be attributed to a simple increase in the crime rate. In fact, the circumstances clearly show that such killings of activists and media personnel is pursuant to an orchestrated plan by a group or sector with an interest in eliminating the victims, invariably activists and media personnel. The military establishment itself acknowledges this, by attributing the rise in killings to a "purge" of ranks by the CPP-NPA.

II. PRESENTATION OF WITNESSES/RESOURCE PERSONS

A. Task Force Usig; PNP Deputy Director Gen. Avelino I. Razon, Jr.

1. Introduction

Task Force Usig (TFU) was created, upon instructions of President Gloria Macapagal-Arroyo, by Secretary Ronaldo V. Puno of the Department of Interior and Local Government, to investigate the media and political killings.

2. Statistics on killed activists and newsmen/media men

TFU reported that from the 2001 to 2006, the total number of slain/party list members reached 111 while the total number of media men killed for the same period reached 26. TFU's statistics are much lower than the figures reported by Karapatan and Amnesty International for the same period. According to Karapatan, there was a total of 724 killings while Amnesty International claims that there was a total of 244 killings. Gen. Razon could not explain the difference in the figures because according to him, Karapatan and Amnesty International have refused to meet with TFU. An updated report of TFU as of 23 November 2006 shows an increased total of 115 cases of killings of activists or militants. Out of this total, 46 cases are already "filed in court" and the remaining 69 are still under "extensive investigation and case build-up."

2.1 Out of the 111 extrajudicial militant killings, 37 criminal complaints have been filed, while 74 cases are still under investigation. The low number of cases filed is allegedly due to: (1) lack of witnesses; (2) absence of sufficient evidence; and (3) the pendency of preliminary investigation. Gen. Razon further added that there is lack of confidence in the impartiality of police, fear of reprisal by other elements of society, and lack of interest of the victims' families.

2.2 Of the total of 26 media persons killed, twenty one (21) cases have been filed while five (5) are still under investigation. When asked to explain the substantial difference in the efficiency of the investigation on media men killings vis-à-vis militant persons, Gen. Razon said that in the case of media personnel, there are more witnesses and the police have received more cooperation from the media.

3. Cases solved

Gen. Razon stated that the PNP deems a case solved in line with a NAPOLCOM Resolution stating that a “case is solved” when a suspect has been identified and charges have been filed before the prosecutor or the court, without prejudice to further investigation. However, Gen. Razon clarified that it is not an international definition.

In truth, the “solution efficiency” of 29% is even deceptive or misleading. As stated in TFU’s updated report “Out of the total 45 cases filed in court, the PNP has filed 5 cases with 8 arrested suspects who are all in jail; filed 25 cases under preliminary investigation, filed 1 case with surrendered suspect, while the suspects for the remaining 15 incidents are still at large and are subject of manhunt operations.” It is not, therefore, entirely accurate that 45 cases have already been filed in court since “25 cases [are] under preliminary investigation.” Thus, only 20 cases have actually been filed in court; 25 cases are only under preliminary investigation. These cases may yet be dismissed for lack of probable cause. Of the 20 cases filed in court, the accused or suspects have been arrested in only (6) cases. It cannot then be accurately said that the accused in the 27 cases have been brought to justice. Indeed, with respect to the 78 cases still under “extensive investigation,” it is even doubtful whether the perpetrators can even be identified.

When asked for the meaning of the term of “under extensive investigation,” Gen. Razon said in each case, regular case conferences are held, more men are assigned to investigate and the organization of special teams such as TFU. Upon inquiry, he replied that TFU receives a monthly budget of P300,000.00. As an incentive, each member of the unit receives P5,000.00 for every suspect captured or case solved. Gen. Razon further testified that the PNP has not been successful in investigating the killings of militants because the CPP/NPA has terrorized the witnesses.

4. Reason for political killings.

Gen. Razon admitted that TFU still cannot explain the reason for the increase in political killings. Thus, TFU fell short of its objective to “establish who is responsible for the killings” and to determine whether there is a pattern of serialized killings victimizing leftist activist and journalist.”

4.1 Gen. Razon refused to attribute the upsurge of political killings to the President’s declaration of an all out war against the communist insurgents.

4.2 But he was quick to say that their records show that the killings are the result of CPP/NPA” own purging because of “financial opportunism.” Gen. Razon admitted that he agrees with the statement of Gen. Palparan that organizations such as Karapatan and Bayan Muna are “fronts” of the CPP-NPA, and that unless “we stop fooling ourselves that they are not fronts, we will not be able to solve the insurgency problem.” He further asserted that the NDF and Bayan Muna provide support, money, resources, and legal assistance to the CPP/NPA.

However, when asked by Chairman Melo whether TFU has data on whom among those killed were finance officers, Gen. Razon could point to only two victims who were allegedly involved in financial operations.

5. TFU did not investigate Gen. Palparan, nor was he asked to account for his statements.

5.1 Notwithstanding the widespread reports that Gen. Palparan had been suspected of being involved in the extrajudicial killing of leftist activists, TFU never summoned Gen. Palparan for questioning or investigation. Gen. Razon made it clear that Gen. Palparan is not under the jurisdiction of the PNP or Task Force Usig. Moreover, he stated that there was still no basis/evidence to summon or investigate a personality such as Gen. Palparan. The PNP needs to operate within the law. Hence, it needs evidence before it can investigate officers.

Atty. Vinluan pointed out, however, that the purpose of investigation is precisely to gather evidence. PNP does not need evidence before it can investigate Gen. Palparan

5.2 Gen. Razon testified that TFU did not ask the Deputy Ombudsman for the Military to look into the alleged violations of Gen. Palparan and the military. However, he supposedly asked the head of the AFP to look into the participation of the military in the killings. Atty. Vinluan asked for copies of such letter-request.

6. Command responsibility

TFU did not investigate higher-ranking military officials. Gen. Razon claimed that the PNP cannot go further than the suspect. If the Sergeant remains silent or refuses or fails to point to the involvement of a superior officer, the PNP cannot go higher.

TFU pointed out that military operations are beyond the scope of the TFU. Since the military conducts its own operations. TFU investigated only four military personnel.

7. Personal opinion

When asked by Chairman Melo whether he would have summoned Gen. Palparan if the latter were under his command, Gen. Razon replied that he would have immediately called Gen. Palparan “to explain why there was an apparent increase in the incident[s] in the areas where he was assigned.” But Gen. Razon also said that Gen. Palparan will not incriminate himself.

8. Recommendations of TFU

To conclude his testimony, General Razon made the following recommendations for the successful investigation and prevention of future killings:

8.1 Closer collaboration of law enforcement/prosecution without sacrificing their impartiality;

8.2 Faster issuance of warrants of arrests;

8.3 Expedite conduct of preliminary investigations;

8.4 Strengthen Witness Protection Program, increase budget to provide economic opportunities for families.

B. AFP Chief of Staff Gen. Hermogenes Esperon:

1. Opening Statement: AFP Policy and Practice

Gen. Esperon sternly declared that the AFP does not condone or employ summary executions as a matter of policy and practice. Neither does it tolerate abuses, crimes, or summary executions. The AFP is a professional institution, which does not engage in summary executions. The AFP, in fact, operates on the basis of the Constitution and thus holds the value of human life to the highest degree. Several publications have been made to educate AFP’s soldiers:

- a. AFP Standing Rules of Engagement
- b. Protection of Non-Combatants in the Philippines
- c. The Philippine Army Soldiers' Handbook on Human Rights and International Humanitarian Law
- d. Primer on the Comprehensive Agreement on the Restrict for Human Rights and International Humanitarian Law
- e. Rules of Behavior on Combat
- f. Love of Country/Pagmamahal sa Bayan
- g. Code of Ethics

Gen. Esperon further said that it is unfair to link the AFP to all political killings just because the political inclination of the victims is toward the left. He stated that the AFP has been stereotyped as the perpetrator of the extra-judicial killings of journalists and militants. Subjecting the AFP to a trial by publicity is a *modus-operandi* by the CPP-NPA.

However, Gen. Esperon refused to categorically state that the AFP has absolutely nothing to do with the killings of activists, as such statement might be too presumptuous.

2. Reaction to Gen. Jovito Palparan's Statement "Bayan, Karapatan, Anak ng Bayan are all front organizations of the CPP-NPA with Bayan Muna as the umbrella organization".

Gen. Esperon agreed that there is truth to the said statement. He claimed that the CPP-NPA uses as a shield the National Democratic Front (NDF), which is an aggrupation of legal organizations that are infiltrated with members of the CPP-NPA. For example, Bayan Muna, while being a legal organization has elements that are also members of the CPP-NPA. These members are conveniently hiding under a legal organization to serve the ends of the CPP. Therefore, these organizations become the front organizations of the armed struggle of the NPA. What is meant by the term "front organizations" is that many members of the legal organization are identified members of the NPA. These members, who are identified with the CPP-NPA, are fooling these (legal) organizations to be the umbrella of the CPP-NPA and work ultimately, wittingly or unwittingly, for the cause of the CPP-NPA.

3. Presentation entitled "Knowing the Enemy"

Gen. Esperon confirmed the existence of an AFP Briefing presentation entitled "Knowing the Enemy" which explicitly accuses progressive leftist organizations of being front organizations of the CPP-NPA.

4. AFP considers the CPP-NPA as "enemy of the state"

The CPP-NPA is treated as an enemy of the state because the Philippines is a democratic state. The CPP-NPA wants to supplant our democratic way of life with a communist ideology.

However, Gen. Esperon was quick to clarify that it does not follow that the AFP similarly treats some left-wing organizations (which are considered front organizations of the CPP-NPA) as enemies of the state because these are legal organizations and serve a function in a democratic way of life. He added that Gen. Palparan's statement that Congressmen Satur Ocampo and Teddy Casiño are "enemies of the state" might have been prompted by the fact that the former was a known member of the CPP.

5. Reaction to Gen. Palparan's statement, "Even though they are in government, as Congress representatives, no matter what appearance they take, they are still enemies of the State", as reported in the Philippine Daily Inquirer, May 16, 2006 issue.

Gen. Esperon said he has not been given a manuscript that contained the said statement. He added that there could be truth to the matter in light of a narration made by a certain Mr. Piedad, a former NPA Commander and a witness to the mass graves in Inupakan, Leyte. According to Mr. Piedad, the orders for the mass killings came from NPA personalities which are known in the filed as Ka Gres, Joma Sison, Ka Louie and Ka Satur. In another incident at Aurora, a letter was uncovered which mentions the name "Ka Satur" as responsible for the purchase of Five Million Pesos (P5,000,000.00) worth of explosives. Though the real identity of "Ka Satur" is unknown, it seems to be a popular name in the underground. Thus, this could be the basis for Gen. Palparan's statements.

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11. Procedure for complaints filed

When asked about the AFP's investigations into killings, General Esperon stated that before an investigation can commence, a complaint must first be filed. From the years 2000 to 2006, a total of 770 complaints were investigated. Complaints come from the Commission on Human Rights, the victims themselves, foreign or non-governmental organizations, the Department of Foreign Affairs, or the joint-monitoring committee. Thereafter, the report of the investigation will be submitted to the General Headquarters.

However, Gen. Esperon added that although the AFP entertains the complaints filed, it is the PNP which is the rightful or correct agency to proceed with the criminal investigation, with the AFP simply cooperating with the PNP by giving inputs and making its personnel available for investigation.

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15. AFP Investigation of Gen. Jovito Palparan

It was noted that there was an increase in activist killings in the areas where Gen. Palparan was assigned. Thus, it earned him the moniker "Butcher" or "Berdugo."

Gen. Esperon said that an internal investigation was conducted by the AFP. However, no formal investigation was conducted since no formal complaints were filed against Gen. Palparan. The internal investigations conducted were informal in nature and thus, no records were kept.

Moreover, when the reports came out in the media, Task Force Usig was already organized. Thus, the AFP deemed it more appropriate to let the task force conduct any investigation lest the AFP be accused of whitewashing the matter.

Additionally, Gen. Esperon said that to investigate Gen. Palparan during the time when he was neutralizing the NPA would have been counterproductive. Although Gen. Esperon admitted that the AFP has the power and authority to investigate if any of its officers has violated certain rules and regulations, such investigation may, however, muddle or obstruct any on-going operation. Gen. Esperon added that the AFP has confidence in the duly constituted investigative body.

Atty. Vinluan mentioned an incident in Mindoro wherein Eden Marcellana and Eddie Gumanoy were abducted by 20 men believed to be members of the military and military assets. Gen. Esperon could not say whether an investigation was conducted on the matter, reasoning that he was stationed in Basilan at the time the incident happened.

16. Reaction on the following statements made by Gen. Palparan:

General Esperon was asked for his reaction to General Palparan's public image and statements appearing in media reports, among which were as follows:

Potential vigilante style actions by anti-communist elements outside the military organization cannot be stopped completely and the killing of activists are necessary incident to conflict.

I cannot order my soldiers to kill, it's their judgment call, they can do it on their own.

I encourage people victimized by communist rebels to get even.

The killings are being attributed to me but I did not kill them, I just inspire the trigger men.

Their (three student doing research work outside Manila) disappearance is good for us but as to who abducted them we don't know.

Gen. Esperon refused to answer any question in relation to Gen. Palparan's statements, reasoning that Gen. Palparan himself should be the one to answer the same.

Chairman Melo asked Gen. Esperon if it occurred to him to call Gen. Palparan to explain his statements. Gen. Esperon related that he called Gen. Palparan regarding the three (3) students who disappeared. Gen. Palparan denied any involvement and expressed his willingness to submit to any investigation by the Task Force Usig. Gen. Esperon added that he recalled calling Gen. Palparan about a statement (he forgot which) and the latter said he was misquoted by the newspaper. Gen. Esperon advised him to be careful with his statements.

Gen. Esperon said that assuming the above-statements were true, those "are not right words that should come from an officer." He added that the statements, if true, do not reflect well on the AFP, but it does not mean that the military should be blamed for the killings.

It appears that the AFP did not investigate Gen. Palparan on the matter on the ground that no formal complaint was lodged.

17. Command Responsibility

When asked about his concept of command responsibility, General Esperon stated that it means that a commander is responsible for what his men do or fail to do in terms of accomplishing the mission. It does not include criminal liability of the superior if his men or subordinates commit an illegal act that is criminal in nature. Only the subordinate should be liable for the criminal act and not the superior commander. The commander is responsible only for acts he authorized.

In relation to reported abuses allegedly committed by Gen. Palparan, Gen. Esperon said that these are only accusations and that no complaints were filed. Moreover, he reiterated that the matter is left to be investigated by Task Force Usig and the Commission.

18. Actions that may be undertaken by the AFP to prevent extrajudicial killings

When asked what the AFP is doing to prevent extrajudicial killings, General Esperon simply mentioned that the AFP has its rules on engagement and that the AFP conducts courses which have a module on human rights and there are several publications to reinforce AFP's observance of human rights. Atty. Vinluan suggested that in order to stop extrajudicial killings, the military should correct the impression that left wing organizations, such as Bayan Muna, Gabriela, and Anak Pawis, are fronts of the CPP-NPA. Gen. Esperon countered that Satur Ocampo should denounce the NPA. By doing so, the AFP will know that previous members of the CPP-NPA have truly severed their relations with the underground.

...

21. Summary/Notable Matters:

a. The AFP did not conduct any formal investigation of suspects, but admits a rise in reported killings.

b. General Esperon is convinced that the recent activist and journalist killings were carried out by the CPP-NPA as part of a “purge.” Captured documents supposedly prove this. The full contents or a copy of the documents, however, were not presented to the Commission.

c. Likewise, General Esperon was firm in his position that the victims were members of the CPP/NPA and that the activist organizations, while legal, are infiltrated by the CPP-NPA. He stated that these organizations are being manipulated by the NPA.

d. Gen. Esperon admitted receiving reports about Palparan being suspected of conducting extrajudicial killings, being called Berdugo, etc. but he attributed this to propaganda of CPP/NPA.

e. General Esperon admitted that no formal investigation was conducted by the AFP on General Palparan, simply because no complaint was filed. He mentioned that he merely called General Palparan on his cellphone and did not go beyond the latter’s denials.

C. Maj. Gen. Jovito S. Palparan:

1. Introduction

Maj. Gen. Jovito S. Palparan served in the Armed Forces of the Philippines for thirty-three (33) years before his retirement on September 11, 2006. He was invited by the Commission to shed light on the heightened number of extrajudicial killings of media workers and political activists that transpired in the various posts to which he was assigned including, but not limited to, the following:

Commanding General - 7th Infantry Division, Central Luzon
September 2005 – September 2006

Commanding General - 8th Infantry Division, Eastern Visayas
February 2005 – August 2006

Brigade Commander - 2nd Infantry Division, Mindoro
May 2001 – April 2003

...

3. Organizations/Party List Representatives as support systems of the CPP-NPA; Enemies of the State

Gen. Palparan stated that certain Organizations and Party List Representatives act as support systems providing materials and shelter for the CPP-NPA. However, when asked to name these organizations, Gen. Palparan declined to mention them publicly but only agreed to disclose the names of these organizations in a closed-door session.

When asked about his previous statements accusing party list organizations such as Bayan, Karapatan, Gabriela, and Anak Bayan as front organizations of the CPP-NPA with Bayan Muna as the umbrella organization, Gen. Palparan neither confirmed nor denied having made these statements.

Upon further questioning, however, Gen. Palparan said that he based this information on video clippings of CPP Chairman Joma Sison naming certain “National Democratic Front Organizations” as the support systems of the CPP NPA.

Gen. Palparan affirmed his earlier statement made before the Court of Appeals wherein he said that these seemingly legitimate and ordinary organizations are actually enemies of the state. He made an exception, however, with respect to members of these organizations who may not really be enemies of the state but are considered as such due to their membership in these organizations.

In an interview by Pia Hontiveros and Tony Velasquez on the TV Program "Top Story," Gen. Palparan was asked why he considered organizations like Bayan Muna as fronts for the NPA. In response thereto, Gen. Palparan said "... a lot of the members are actually involved in atrocities and crimes ..." When asked what evidence he had to support this allegation, he said that he had no evidence, but that "he could feel it." At the Commission hearing, however, Gen. Palparan said that there are witnesses who are former members of these organizations that have severed their membership who can attest to this. These witnesses or their statements were not presented to the Commission. Gen. Palparan also stressed that "a lot of members" and not all members are involved in atrocities and crimes.

4. Gen. Palparan's Statements implicating specific Party List Organizations

Gen. Palparan was reported to have made the following statements before the media implicating specific Party List Organizations such as Bayan, Karapatan, Gabriela, and Anak Bayan as fronts for the NPA, to wit:

"Even though they are in Government as Party List Representatives, no matter what appearance they take, they are still Enemies of the State." (May 16, 2006, Philippine Daily Inquirer)

"The Party List Members of Congress are doing things to further the revolution, the communist movement... I wish they were not there..." (Interview with Pia Hontiveros and Tony Velasquez -- Top Story)

"It is my belief that these members of party list in Congress are providing the day-to-day policies of the rebel movement" (February 3, 2006, French Press Agency)

When asked to confirm during the Commission hearing whether or not he made these statements before the media, Gen. Palparan only confirmed the statement given in "Top Story." With respect to the others, he simply evaded the issue by saying that he was not sure or that he could not recall making the statements. When asked to name which organizations he was referring to as enemies of the state, Gen. Palparan responded "... I just want to be general, I just don't want to specify ..."

During the latter part of his testimony, however, when he was being questioned by Chief State Prosecutor Zuño, Gen. Palparan specifically named Bayan Muna as a recruitment agency of the CPP NPA in Mindoro, to wit:

... in the course of our operation, there were some reports that that BAYAN MUNA headquarters at the time in Mindoro was used as a hideout of the armed group. And as I said, a recruitment agency because they recruit young people there as members of some organizations then eventually go up in the mountain. And then, there were those whosurrendered to us confirming this...

...

8. Collateral Damage; Civilians and Local Officials; Vigilante Killings

During the course of his testimony, Gen. Palparan confirmed making the following statements:

8.1 Civilians Killed in Crossfire

My order to my soldiers is that, if they are certain that there are armed rebels in the house or yard, shoot them. It will just be too bad if civilians are killed in the process. We are sorry if you are killed in the crossfire.

9.2 Collateral Damage

There would be some collateral damage, but it will be short and tolerable. The enemy would blow it up as a massive violation of human rights. But to me, it would just be necessary incidents.

8.3 Death of Civilians and Local Officials

Sorry nalang kung may madamay na civilian;... The death of civilians and local officials were 'small sacrifices' brought about by the military's anti-insurgency campaign. – Philippine Daily Inquirer 12 September 2006

8.4 Vigilante-Style Actions by Anti-Communist Elements Outside the Military:

[T]hey cannot be stopped completely ... the killings, I would say are necessary incidents in a conflict because they (referring to the rebels) are violent. It's not necessary that the military alone should be blamed. We are armed, of course, and trained to confront and control violence. But other people whose lives are affected in these areas are also participating ...

...

In fact, Gen. Palparan confirmed his statement given before the House of Representatives' Committee on National Defense and Security on May 25, 2005 wherein he said: "I cannot categorically deny that (referring to the military having special units, not properly identified in bonnets and masks, operating in the middle of the night.)" Gen. Palparan, however, also said that if there are facts proving that they (soldiers) are engaged in such activities, he is willing to submit them. He also denounced any involvement by the AFP in the acts that may have been carried out by individual soldiers.

...

14. CPP-NPA Purge Theory

Significantly, however, when asked about CPP/NPA's participation in the political killings, he testified that the killings are not attributable to the alleged CPP/NPA purge. "I don't charge it to NPA purge." He also mentioned that he had "to be skeptical on th[ese] report[s]."

III. CASE STUDIES

...

B. Methodology of Attacks

The extrajudicial killings of activists were carried out in a great number of cases by unidentified men riding on motorcycles wearing helmets or bonnet masks.

The attackers rode in tandem on their motorcycles, with the backrider getting off to do the shooting. In some of the cases where the attackers killed their victims on foot, they made their escape using motorcycles.

The efficiency and confident manner with which the attacks were undertaken clearly suggest that the killers were well-trained professionals who knew their business well. Many of the attacks were carried out during daytime and consummated with a limited number of shots hitting their intended target. The families of the victims in many of the cases reported previous death threats or surveillance by suspected military or police personnel.

IV. FINDINGS

From the evidence and presentations received by the Commission, it became apparent early on that the Commission must differentiate its inquiry into the killings of activists from those of media personnel and agrarian reform movement. It appeared that the killings of media personnel are more or less attributable to reprisals for the victims' exposés or other media practices. In the media killings, local politicians, warlords, or big business interests are viewed as the parties responsible for the killings, while in agrarian reform related killings, it is suspected that landowners and those opposed to the implementation of land reform are behind the killings. On the other hand, the killings of activists were invariably laid at the doorstep of the military.

The investigation of killings of media personnel by the PNP was notably more successful than that of activist killings. For the media killings, formal complaints have been filed in a great majority of cases. Suspects in the media killings have been named and identified. In activist killings, there have been a measly number of complaints filed with the authorities.

In all, the killings of media personnel have been, more or less, solved, compared to the activist killings and agrarian reform related killings. On the other hand, it is not clear if the agrarian reform related killings have the same etiology as the activist killings. Thus, the Commission hereby sees fit to submit its findings on activist killings independently of that of the media killings and agrarian reform related killings.

...

AGRARIAN REFORM RELATED KILLINGS

With the exception of Hernando Baria, the killing of farmers-activists appeared to have followed the same pattern as other activists. In the case of the Vigo spouses, their killing could have been motivated by political reasons or by reason of their perceived ties with the NPA. In the case of Enrico Cabanit, it appears that he was killed for his activities as a peasant farmer leader, and not for affiliation with politicians or with the NPA. In any case, their deaths are equally deplorable and cannot be countenanced. Most of the cases of agrarian related killings have pending investigations or legal action before the proper authorities. Hence, the result of such investigations should shed more light on the persons or interests behind the killings. In this regard, the prosecution and law enforcement authorities concerned should expedite the investigation and prosecution of these crimes. Particular attention should be placed on the investigations being undertaken by the police in the various cases, specifically that of Cabanit, it appearing that the police seemed to have failed to earnestly and properly investigate the same.

ACTIVIST KILLINGS

From the evidence gathered, and after an extensive study of the same, the Commission comes to the conclusion that there is no direct evidence, but only circumstantial evidence, linking some elements in the military to the killings. THERE IS NO OFFICIAL OR SANCTIONED POLICY ON THE PART OF THE MILITARY OR ITS CIVILIAN SUPERIORS TO RESORT TO WHAT OTHER COUNTRIES EUPHEMISTICALLY CALL "ALTERNATIVE PROCEDURES" – MEANING ILLEGAL LIQUIDATIONS. However, there is certainly evidence pointing the finger of suspicion at some elements and personalities in the armed forces, in particular General Palparan, as responsible for an undetermined number of killings, by allowing, tolerating, and even encouraging the killings.

A. THERE IS SOME CIRCUMSTANTIAL EVIDENCE TO SUPPORT THE PROPOSITION THAT SOME ELEMENTS WITHIN OR CONNECTED TO THE MILITARY ARE RESPONSIBLE FOR THE KILLINGS:

No witness came forward to testify that he or she witnessed the military or any military personnel actually participate in any extrajudicial killing. Neither are there in almost all the cases any eyewitnesses to the killings who could actually identify the perpetrators, much more identify them as members of the military.

Quite deplorable is the refusal of the activist groups such as Karapatan, Bayan Muna, etc., to present their evidence before the commission. If these activist groups were indeed legitimate and not merely NPA fronts, as they have been scornfully tagged, it would have been to their best interest to display the evidence upon which they rely for their conclusion that the military is behind the killings. In fact, this refusal irresistibly lends itself to the interpretation that they do not have the necessary evidence to prove their allegations against the military. It would not even be unreasonable to say that their recalcitrance only benefits the military's position that they are indeed mere fronts for the CPP-NPA and thus, enemies of the state.

Nevertheless, despite the refusal of the activist groups to cooperate, and regardless of the question of their legitimacy, certain facts, taken together with admissions and statements by the witnesses, lead the Commission to conclude that there is some circumstantial evidence that a certain group in the military, certainly not the whole military organization, is responsible for the killings. To maintain otherwise would be closing one's eyes to reality.

1. Motive

At once, it becomes clear that perhaps a small group in the armed forces may be said to have the motives for the elimination of the civilian activists. In a great majority of the cases of activist killings, the only explanation for the victims' deaths is the fact that they were allegedly rebels, or connected with the CPP/NPA. Apart from a negligible few solved cases, the PNP has not uncovered any other explanation for their killing.

...

2. Capacity and Opportunity

The suspected group in the military has no doubt the capacity or the means to carry out the killings. In fact, the killings appear to be well organized and the killers adequately equipped. More telling, however, is the fact that, with the CPP-NPA out of the question, only a group with certain military capabilities can succeed in carrying out an orchestrated plan of eliminating its admitted enemies.

...

3. Reaction

Likewise, the reaction of some officers of the armed forces to the rising number of killings lends itself to the inference that they were not much averse to what was happening. Practically nothing was done to prevent or investigate the killings, not even to look into the worsening public opinion and accusations against General Palparan.

4. General Palparan

The rise in killings somehow became more pronounced in areas where General Palparan was assigned. The trend was so unusual that General Palparan was said to have left a trail of blood or bodies in his wake wherever he was assigned. He "earned" the moniker "Berdugo" from activist and media groups for his reputation. General Palparan ascribes his grisly reputation to his enemies, as

part of their propaganda campaign to discredit him and to denigrate his excellent performance in implementing the various missions and programs assigned to him by his superiors.

...

General Palparan's numerous public statements caught on film or relayed through print media give the overall impression that he is not a bit disturbed by the extrajudicial killings of civilian activists, whom he considers enemies of the state. He admits having uttered statements that may have encouraged the said killings. He also obviously condones these killings, by failing to properly investigate the possibility that his men may have been behind them.

General Palparan's statements and cavalier attitude towards the killings inevitably reveals that he has no qualms about the killing of those whom he considers his enemies, whether by his order or done by his men independently. He mentions that if his men kill civilians suspected of NPA connections, "it is their call," obviously meaning that it is up to them to do so. This gives the impression that he may not order the killings, but neither will he order his men to desist from doing so. Under the doctrine of command responsibility, General Palparan admitted his guilt of the said crimes when he made this statement.

Worse, he admittedly offers encouragement and "inspiration" to those who may have been responsible for the killings.

He also admits to having helped in the creation of so-called "barangay defense forces", which may or may not be armed, to prevent the entry of CPP/NPA in such barangays. Such defense forces are equivalent to an unofficial civilian militia. It is well-known that such militia can easily degenerate into a mindless armed mob, where the majority simply lord it over the minority. This is a fertile situation for extrajudicial killings. In this way, General Palparan contributed to the extrajudicial killings by creating ideal situations for their commission and by indirectly encouraging them.

Then too, during a hearing before the Committee on National Defense and Security of the House of Representatives held on May 25, 2005, General Palparan was asked the following questions by the Chairman of the Committee, Congressman Roilo Golez:

"The Chairman: Thank you, Your Honor. May we have your comment on the accusation that you have special teams not properly identified in bonnets or masks operating in the middle of the night?"

"Mr. Palparan: Your Honor, I cannot categorically deny that and also admit that, but our operations ..."

"The Chairman: You do have teams that operate that way?"

"Mr. Palparan: I don't have official policy on that matter."

The lack of a categorical denial on the part of Gen. Palparan in respect of whether the units under his command "have special teams not properly identified [and] in bonnets or masks operating in the middle of the night" is, as a matter of law, an admission of the existence of such special teams. Obviously, such special teams operating in the middle of the night wearing masks or in bonnets have only one sinister and devious purpose or objective: the extrajudicial elimination of the enemies of whoever formed these teams.

...

B. GENERAL PALPARAN AND PERHAPS SOME OF HIS SUPERIOR OFFICERS, MAY BE HELD RESPONSIBLE FOR FAILING TO PREVENT, PUNISH OR CONDEMN THE KILLINGS UNDER THE PRINCIPLE OF COMMAND RESPONSIBILITY.

It being well-nigh obvious that some elements in the military were behind the killings of activists, it becomes equally plain that some ranking officers in the Army (for the Navy, Air Force and Coast Guard are not herein involved), have not performed their function of investigating or preventing the said killings, as well as punishing their perpetrators. Under the doctrine of command responsibility, one may be held responsible for the killings if he authorized, encouraged, ignored or tolerated the killings.

This failure to act may perhaps be attributed to the misconception of some that command responsibility extends only to acts which a commander orders or authorizes, and not to criminal acts of his subordinates done on their own, although he had knowledge or, had reason to know of, or should have known about the same. Failure to investigate and to punish is just as inculpatory.

1. Command Responsibility defined

Contrary to the apparently inaccurate notion of command responsibility entertained by some officers in the AFP, command responsibility in the modern international law sense is also an omission mode of individual criminal liability wherein the superior officer is responsible for crimes committed by his subordinates for failing to prevent or punish them (as opposed to crimes he ordered).

The doctrine of “command responsibility” is not unfamiliar, being a guiding principle in military organizations. The doctrine was formalized by the Hague Conventions IV (1907) and X (1907) and applied for the first time by the German Supreme Court in Leipzig after World War I, in the Trial of Emil Muller. Muller was sentenced by the Court for failing to prevent the commission of crimes and to punish the perpetrators thereof.

The 1946 Yamashita case is a decision of the US Supreme Court which was appealed from the Philippine Supreme Court, when the Philippines was still a colony of the United States. The US Supreme Court convicted Yamashita as the superior of the Japanese forces which committed unspeakable atrocities throughout the Philippines, acts of violence, cruelty, and murder upon the civilian population and prisoners of war, particularly a large-scale massacre of civilians in Batangas, as well as wholesale pillage and wanton destruction of religious monuments in the country. The US Supreme Court determined that Yamashita possessed the duty as an army commander to control the operations of his troops, and was criminally liable for permitting them to commit such despicable acts. Various laws of warfare were cited as basis of such superior responsibility: Articles 1 and 43 of the Regulations annexed to the Fourth Hague Convention of 1907, Article 19 of the Tenth Hague Convention of 1907, and Article 26 of the 1926 Geneva Convention on the wounded and sick. The Court concluded that Yamashita possessed:

...an affirmative duty to take such measures as were within his power and appropriate in the circumstances to protect prisoners of war and the civilian population. This duty of a commanding officer has heretofore been recognized, and its breach penalized by our own military tribunals.

In the Medina case, concerning the infamous My Lai Massacre in Vietnam, it was held by an American Court Martial that a commander will be liable for crimes of his subordinates when he orders a crime committed or knows that a crime is about to be committed, has power to prevent it, and fails to exercise that power.

After the Hague Convention, the first international treaty to comprehensively codify the doctrine of command responsibility is the Additional Protocol I (AP I) of 1977 to the Geneva Conventions of 1949, Article 86(2) of which states that:

... the fact that a breach of the Conventions or of this Protocol was committed by a subordinate does not absolve his superiors from...responsibility...if they knew, or had information which should have enabled them to conclude in the circumstances at the time, that he was committing or about to commit such a breach and if they did not take all feasible measures within their power to prevent or repress the breach.

Article 87 obliges a commander to “prevent and, where necessary, to suppress and report to competent authorities” any violation of the Conventions and of AP I. In Article 86(2) for the first time a provision would “explicitly address the knowledge factor of command responsibility.” While the Philippines signed and ratified the Geneva Convention of 1949, it has only signed and has not ratified AP I.

The establishment of the International Criminal Tribunal for Yugoslavia (ICTY) by the United Nations Security Council has led to further international jurisprudence on the doctrine of command responsibility.

Article 7(3) of the ICTY Statute states that the fact that the crimes ‘were committed by a subordinate does not relieve his superior of criminal responsibility if he knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators.’ In *Prosecutor v. Delalic et al* (“the Celebici case”), the ICTY elaborated a threefold requirement for the existence of command responsibility, which has been confirmed by subsequent jurisprudence:

1. the existence of a superior-subordinate relationship;
2. that the superior knew or had reason to know that the criminal act was about to be or had been committed; and
3. that the superior failed to take the reasonable measures to prevent the criminal act or to punish the perpetrator thereof.

The applicable standards of knowledge defined in the second requirement can further be classified as: (a) “Actual knowledge” – which may be established by either direct or indirect evidence; and (b) “Had reason to know” wherein absence of knowledge is not a defense where the accused did not take reasonable steps to acquire such knowledge. Notably, in the case of *Prosecutor v Timohir Blaskic*, (“the Blaskic case”), it was held that ignorance is not a defense where the absence of knowledge is the result of negligence in the discharge of duties.

The latest expression of the doctrine of command responsibility in international law is in Article 28 of the Rome Statute of the ICC which states:

In addition to other grounds of criminal responsibility under this Statute for crimes within the jurisdiction of the Court:

(a) A military commander or person effectively acting as a military commander shall be criminally responsible for crimes within the jurisdiction of the Court committed by forces under his or her effective command and control, or effective authority and control as the case may be, as a result of his or her failure to exercise control properly over such

forces, where:

- (i) That military commander or person either knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes; and
- (ii) That military commander or person failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

(b) With respect to superior and subordinate relationships not described in paragraph (a), a superior shall be criminally responsible for crimes within the jurisdiction of the Court committed by subordinates under his or her effective authority and control, as a result of his or her failure to exercise control properly over such subordinates, where:

(i) The superior either knew, or consciously disregarded information which clearly indicated, that the subordinates were committing or about to commit such crimes;

(ii) The crimes concerned activities that were within the effective responsibility and control of the superior; and

(iii) The superior failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

Article 28(a) imposes individual responsibility on military commanders for crimes committed by forces under their effective command and control if they 'either knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes.'

Interpreted literally, Article 28(a) adopts the stricter "should have known" standard. Notably, the Trial Chamber in *Celebici* strongly suggested that the language of Article 28(a) may reasonably be interpreted to impose an affirmative duty to remain informed of the activities of subordinates. However, given the example afforded by the ICTY's conflicting interpretations of the knowledge requirement in Article 86(2) of AP I, it cannot be assumed that a literal interpretation of Article 28(a) will be adopted by the ICC. In fact, the meaning of the phrase 'owing to the circumstances at the time, should have known' in Article 28(a) has already become a point of contention within international law literature. AP I and the Rome Statute, however, have not been ratified by the Philippines, but clearly the international trend is towards their application.

From the long line of international conventions and cases, it can be seen that the doctrine of command responsibility has evolved from its simplistic meaning at the time of the Hague Convention towards the much more stringent concept under the Rome Statute. Hence, in the *Yamashita* case, a commander had the duty to take appropriate steps or measures to prevent abuses on prisoners and civilians by his subordinates. In AP I, a superior is responsible if he fails to take feasible measures to prevent or report violations if he had knowledge or information of the same. In the *Medina* standard, the same responsibility extends to violations or abuses by subordinates which a commander "should have knowledge" of, meaning that the commander is now responsible for criminal acts of his subordinates of which he had actual or constructive knowledge. In the ICTY Statute and in the cases of *Delalic* and *Blaskic*, the commander is liable if he fails to act when he "had reason to know" that offenses would be or have been committed by his subordinates. The Rome Statute adopts the stricter "should have known" standard, in which the commander has an affirmative duty to keep himself informed of the activities of subordinates. Clearly, the indubitable trend in international law is to place greater and heavier responsibility on those who are in positions of command or control over military and police personnel, the only forces with the most lethal weapons at their disposal.

2. Command Responsibility as Binding Customary International Law

As early as 1949, the Philippine Supreme Court had the occasion to rule that the Hague Convention, including the doctrine of command responsibility, was adopted as a generally accepted principle of international law by the

Philippines. In this case, shortly after the end of World War II, Shigenori Kuroda, a Lieutenant General in the Japanese Imperial Army, questioned before the Supreme Court the creation of a military tribunal that tried him for his “command responsibility” in failing to prevent his troops from committing abuses and atrocities against the Filipino populace during World War II. He claimed that the Hague Convention on Rules and Regulations covering Land Warfare, of which he was accused of violating, among others, was inapplicable since the Philippines was not yet a signatory or party to it when the alleged violations took place.

In ruling against Kuroda’s objection, the Supreme Court of the Philippines categorically stated that while the Philippines was indeed not a party or signatory to the Hague Convention at the times in question, it nonetheless embodied generally accepted principles of international law adopted by the 1935 Constitution as part of the law of the land. The Supreme Court, through Chief Justice Moran, stated:

It cannot be denied that the rules and regulations of the Hague and Geneva conventions form part of and are wholly based on the generally accepted principles of international law. In fact, these rules and principles were accepted by the two belligerent nations, the United States and Japan, who were signatories to the two Conventions. Such rules and principles, therefore, form part of the law of our nation even if the Philippines was not a signatory to the conventions embodying them, for our Constitution has been deliberately general and extensive in its scope and is not confined to the recognition of rules and principles of international law as contained in treaties to which our government may have been or shall be a signatory.

Even without Kuroda, the doctrine of command responsibility has truly acquired the status of customary international law, and is thus binding on all nations despite the lack of any ratified treaty embodying it, at least insofar as the Philippines is concerned. Its long and universally accepted application since WWI until the present allows this. In fact, based on the jurisprudence of the ad hoc international tribunals, and of other international tribunals and national courts, as well as on state practice, no less than the International Committee on the Red Cross (“ICRC”), has pronounced the following as a rule of customary international humanitarian law, in both international and non-international armed conflicts, binding on all States:

Rule 153. Commanders and other superiors are criminally responsible for war crimes committed by their subordinates if they knew, or had reason to know, that the subordinates were about to commit or were committing such crimes and did not take all necessary and reasonable measures in their power to prevent their commission, or if such crimes had been committed, to punish the persons responsible.

More interestingly, the Philippines, even if not a party to Additional Protocol I to the 1949 Geneva Conventions, is among the states cited by the ICRC whose military manuals, military instructions, and legislation specify the responsibility of commanders for the crimes of their subordinates, confirming that the above rule has crystallized into a norm of customary international humanitarian law. In truth, the Philippine Armed Forces’ own Articles of War recognizes a commander’s responsibility for the actions of his subordinates under the general provision that a commander must maintain discipline within his ranks. Thus, Article 97 of the Articles of War states:

General Article. Though not mentioned in articles, all disorders and neglects to the prejudice of good order and discipline and all conduct of a nature to bring discredit upon the military services shall be taken cognizance of by a general or special or summary court martial according to the nature and degree of the offense, and punished at the discretion of such court.

Likewise, the utterance of statements which tend to induce subordinates to misbehave, such as words that would inspire subordinates to commit extrajudicial killings, is categorically punished in times of war under Article 76 of the Articles of War. Furthermore, Article 105 of the Articles of War recognizes the duty of commanding officer to punish men under his command for “minor offenses” and imposes a penalty for his failure to mete out the appropriate penalty when there is enough evidence to warrant such disciplinary measure.

Hence, it is clear that the doctrine of command responsibility in general has been adopted by the Philippines, as a generally accepted principle of international law, and hence, as part of the law of the land. The doctrine’s refinements and restatements – AP I and the Rome Statute, while signed by but as of yet lacking ratification by the Philippines, may be considered similarly applicable and binding. This was probably put best by Justice Perfecto in his separate opinion in *Yamashita v. Styer*, where he stated:

The treaties entered into between members of the family of nations are but specific definitions and reinforcements of the general common law of nations, the “unwritten” rules of warfare, which for centuries have limited the method and manner of conducting wars. The common law of nations, by which all states are and must be bound, dictates that warfare shall be carried on only in accordance with basic considerations of humanity and chivalry.

3. International and State Responsibility

While the killings are certainly not attributable to the military organization itself, or the State, but only to individuals or groups acting pursuant to their own interests, this does not mean that the State can sit idly by and refuse to act. Ultimately, the State has the responsibility of protecting its citizens and making sure that their fundamental liberties are respected.

The growing worldwide consensus for state responsibility for non-state acts posits that if the State fails to investigate, prosecute or redress private, non-state acts in violation of fundamental liberties, it is in effect aiding the perpetrators of such violations, for which it could be held responsible under international law. Of note is the ruling of The Inter-American Court of Human Rights in *Velasquez-Rodriguez v. Honduras*, viz:

172. [...] An illegal act which violates human rights and which is initially not directly imputable to a State (for example, because it is the act of private person or because the person responsible has not been identified) can lead to international responsibility of the State, not because of the act itself, but because of the lack of due diligence to prevent the violation or to respond to it as required by the Convention.

173. [...] What is decisive is whether a violation of the rights recognized by the Convention has occurred with the support or the acquiescence of the government, or whether the State has allowed the act to take place without taking measures to prevent it or to punish those responsible. Thus, the Court’s task is to determine whether the violation is the result of a State’s failure to fulfill its duty to respect and guarantee those rights, as required by Article 1 (1) of the Convention.

174. The State has a legal duty to take reasonable steps to prevent human rights violations and to use the means at its disposal to carry out a serious investigation of violations committed within its jurisdiction, to identify those responsible, to impose the appropriate punishment and to ensure the victim adequate compensation.

175. This duty to prevent includes all those means of a legal, political, administrative and cultural nature that promote the protection of human rights and ensure that any violations are considered and treated as illegal acts, which, as such, may lead to the punishment of those responsible and the obligation to indemnify the victims for damages [...]

177. In certain circumstances, it may be difficult to investigate acts that violate an individual's rights. The duty to investigate, like the duty to prevent, is not breached merely because the investigation does not produce a satisfactory result. Nevertheless, it must be undertaken in a serious manner and not as a mere formality preordained to be ineffective. An investigation must have an objective and be assumed by the State as its own legal duty, not as a step taken by private interests that depends upon the initiative of the victim or his family or upon their offer of proof, without an effective search for the truth by the government. This is true regardless of what agent is eventually found responsible for the violation. Where the acts of private parties that violate the convention are not seriously investigated, those parties are aided in a sense by the government, thereby making the State responsible on the international plane.

The Inter-American Court of Human Rights eventually found Honduras, as a state, liable for the prolonged detention and disappearance of a detainee, thereby entitling the victim's family to damages.

The same offenses may also give rise to liability for the commanders for damages under the municipal law of other States. In another case relevant to the Philippine setting, *Maximo Hilao v. Estate of Ferdinand Marcos* decided by the Ninth Circuit of U.S. Court of Appeals, victims and families of victims of human rights violations during the administration of Pres. Ferdinand Marcos filed a class suit against the estate of the late President seeking damages for human rights abuses committed against them or their decedents. The principal defense of the Marcos Estate was that the Estate would only be held liable for "acts actually committed by Ferdinand Marcos". The U.S. Circuit Court of Appeals rejected this defense under the doctrine of command responsibility, holding that

"[A] higher official need not have personally performed or ordered the abuses in order to be held liable" and that "[R]esponsibility for torture, summary execution, or disappearances extends beyond the person who actually committed those acts – anyone with higher authority who authorized, tolerated or knowingly ignored those acts is liable for them." This shows that responsibility for acts committed in violation of customary international law may be recognized outside the state where they were committed by the international community.

...

V. RECOMMENDATIONS

The Commission's recommendations, which mostly fall within the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, recommended by the Economic and Social Council of the United Nations on May 24, 1989, are as follows:

A. Political will

...

In the field of extralegal killings, it is urged that the President reiterate in the strongest possible manner her expressions or pronouncements of determination and firm resolve to stop the same. If extrajudicial executions are to be stopped, the political will to do what is right however great the cost must pervade all levels of government so that our beloved country can move

towards the greater ideals of democracy and justice; it must start with the President who must pursue the prevention and prosecution of extrajudicial killings with urgency and fervor.

As recommended by Amnesty International, the Government must consistently and at all levels condemn political killings. The President and all the departments of the Government should make clear to all members of the police and military forces that extrajudicial executions will not be countenanced under any circumstances.

B. Investigation

To ensure that all reports and complaints of extrajudicial killings against the military are investigated promptly, impartially, and effectively, the investigation must be conducted by a body or agency independent from the armed forces. This civilian investigative agency should be independent of, and not under the command, control, or influence of the Armed Forces, and it must have control of its own budget. The personnel must be civilian agents well trained in law enforcement and investigative work and equipped with the necessary array of technical devices to enhance their investigative capabilities. They must be authorized to execute warrants and make arrests. They must be provided with an adequate forensic laboratory and other technical services. In the United States, the Army's professional investigative agency is called the Criminal Investigation Division; the Air Force's is called the Office of Special Investigation; the Navy and Marines are serviced by the Naval Criminal Investigation Service; and for the Coast Guard, the organization is called the Coast Guard Investigation Service. Our armed forces is not so big as to require separate agencies for its services. A single investigating body will be enough. The President should recommend legislation to Congress for the creation of a similar investigation agency to look into and prosecute complaints against military personnel.

On the part of the PNP, the law that created the National Police Commission (Rep. Act No. 6995) should be amended and strengthened to ensure the thorough and impartial investigation of erring police officers by personnel not under the control of the PNP command.

In the conduct of the investigation of extrajudicial killing of activists, or of any case for that matter, the PNP must be enjoined to ensure that the evidence must be strong and sufficient for conviction. The present policy of the PNP – as confirmed by Police Deputy Director General Avelino Razon, Jr. in his testimony before the Commission – to consider their job done or finished from the moment they have filed the complaint with the office of the public prosecutor has inevitably encouraged sloppy and shoddy investigations; it is not infrequent that police investigators, especially in remote areas, would file a case with the office of the public prosecutor, no matter how inadequate the evidence is, just so they can say that the case has been solved and if it is later dismissed for insufficiency of evidence they blame the prosecutor for incompetence or for being corrupt.

The office of the public prosecutor in each province or city must assign prosecutors to review all complaints filed by the police to evaluate the sufficiency of evidence not only to determine the existence of probable cause but also for conviction. If the reviewing prosecutor is of the opinion that the evidence is insufficient, then he must reject the complaint and return it to the police, indicating what additional evidence is needed. Once a complaint is accepted after such review, it means that there is enough evidence for a successful prosecution. This will avoid finger pointing on who is to blame for the dismissal of a case or acquittal of the accused and, more importantly, compel the police to do a thorough job in the investigation of every case.

If after the lapse of six (6) months from the commission of the extrajudicial killing of an activist or media personality the investigation by PNP has not yielded any positive result, the police personnel in charge must request the NBI to take over the investigation. For this purpose, the NBI must be provided with the necessary funds and allowed to hire additional personnel if necessary.

C. Prosecution

To ensure that those responsible for the extrajudicial execution of activists and media people are brought to justice and that the prosecution is handled with efficiency and dispatch, the Department of Justice (DOJ) must create a special team of competent and well-trained prosecutors to handle the trial of said cases. Also, the DOJ should request the Supreme Court to designate special courts to hear and try said cases and to require the courts so designated to give the highest priority to them, conduct daily hearings, and resolve them within six (6) months.

With respect to pending cases the prosecution of which has not been moving for lack of judges or because of the fault or negligence of the public prosecutor, the Office of the Chief State Prosecutor should make representations with the Office of the Court Administrator to detail judges to the vacant salas, or to designate special prosecutors to take over the prosecution, as the case may be.

As regards killings in areas where witnesses are afraid to testify because of fear of reprisal, steps should be taken to transfer the venue to Manila.

D. Protection of witnesses

As part of the need to ensure the successful prosecution of those responsible for extrajudicial killings, the present Witness Protection Program created under Republic Act. No. 6981 should be enhanced and made more effective so as to guarantee the safety of witnesses to the killings. The existing program is suffering from lack of funds and necessary manpower. The Government must give the highest priority to the improvement, strengthening, and funding of said program, preferably patterned after the U.S. federal witness protection program.

The program should also be made available to persons who have received death threats or who are otherwise in danger of extralegal, arbitrary or summary execution.

E. Special law for strict chain-of-command responsibility

The President should propose legislation to require police and military forces and other government officials to maintain strict chain-of-command responsibility with respect to extrajudicial killings and other offenses committed by personnel under their command, control or authority. Such legislation must deal specifically with extralegal, arbitrary, and summary executions and forced “disappearances” and provide appropriate penalties which take into account the gravity of the offense. It should penalize a superior government official, military or otherwise, who encourages, incites, tolerates or ignores, any extrajudicial killing committed by a subordinate. The failure of such a government official to prevent an extrajudicial killing if he had a reasonable opportunity to do so, or his failure to investigate and punish his subordinate, or to otherwise take appropriate action to deter or prevent its commission or punish his erring subordinate should be criminalized. Even “general information” – e.g., media reports – which would place the superior on notice of possible unlawful acts by his subordinate should be sufficient to hold him criminally liable if he failed to investigate and punish his subordinate.

There should be no requirement that a causal relationship be established between a superior's failure to act and the subordinate's crime; his liability under the doctrine of command responsibility should be based on his omission to prevent the commission of the offense or to punish the perpetrator.

F. Enhancement of investigative capabilities of the PNP and NBI.

The investigative capabilities of the PNP and NBI should be improved and enhanced through the following measures, among others:

- (a) improvement of the forensic laboratories and equipment of the PNP and NBI and further training of forensic technicians;**
- (b) establishment of a national automated ballistic information system;**
- (c) procurement of a software program for composite sketches of suspects;**
- (d) adoption of crime mapping in all police stations and NBI offices; and**
- (e) strengthening of the information reward system.**

G. Proper orientation and training of security forces.

Perhaps much of the failure of the proper and accountable officers to prevent, investigate, or punish criminal acts by their subordinates stems from a lack of proper understanding and emphasis on the present concept of command responsibility. The AFP should be encouraged and supported to conduct intensive seminars, orientations, or training for mid to high-ranking officers, to make them conscious of the prevailing doctrines of command responsibility, and the ramifications thereof. This will hopefully foster responsibility and accountability among the officers concerned, as well as the men they command.

Understandable is the military's wariness in dealing with the party list organizations. However, unless otherwise declared outside the law by competent authority, these organizations should be treated with fairness and their members should not be unilaterally considered as "enemies of the state." As suggested in Amnesty International's 14-point Program for the prevention of extra-legal executions: "The prohibition of extra-judicial executions should be reflected in the training of all officials involved in the arrest and custody of prisoners and all officials authorized to use lethal force and in the instructions issued to them. These officials should be instructed that they have the right and duty to refuse to obey any order to participate in an extrajudicial execution. An order from a superior officer or a public authority must never be invoked as a justification for taking part in an extra-judicial execution."

VI. CONCLUSION

...

"The Philippines," declares the Constitution, "is a democratic and republican State." An essential characteristic of such State is the rule of law, which principle is expressly mentioned in the Constitution's Preamble. According to the previously cited authority, the rule of law "expresses the concept that government officials have only the authority given them by law and defined by law, and that such authority continues only with the consent of the people". Thus, without any hesitation, the Supreme Court in *Callanta v. Office of the Ombudsman* declared that "[i]n our jurisdiction, the rule of law, and not of men, governs," while in *Villavicencio v. Lukban*, it upheld the primacy of law by declaring that "[n]o official, no matter how high, is above the law."

...

In fact, the Supreme Court is not unfamiliar with the present situation. Of particular interest is the case of *Aberca v. Ver*. In ruling that pre-emptive strikes by the military against suspected communist safehouses violated the civil rights of the victims, and thus made the perpetrators thereof liable for damages, the Supreme Court, through Justice Pedro L. Yap, stated:

Its message is clear; no man may seek to violate those sacred rights with impunity. In times of great upheaval or of social and political stress, when the temptation is strongest to yield — borrowing the words of Chief Justice Claudio Teehankee — to the law of force rather than the force of law, it is necessary to remind ourselves that certain basic rights and liberties are immutable and cannot be sacrificed to the transient needs or imperious demands of the ruling power. The rule of law must prevail, or else liberty will perish. Our commitment to democratic principles and to the rule of law compels us to reject the view which reduces law to nothing but the expression of the will of the predominant power in the community. “Democracy cannot be a reign of progress, of liberty, of justice, unless the law is respected by him who makes it and by him for whom it is made. Now this respect implies a maximum of faith, a minimum of idealism. On going to the bottom of the matter, we discover that life demands of us a certain residuum of sentiment which is not derived from reason, but which reason nevertheless controls.

x x x

It may be that the respondents, as members of the Armed Forces of the Philippines, were merely responding to their duty, as they claim, “to prevent or suppress lawless violence, insurrection, rebellion and subversion” in accordance with Proclamation No. 2054 of President Marcos, despite the lifting of martial law on January 27, 1981, and in pursuance of such objective, to launch preemptive strikes against alleged communist terrorist underground houses. But this cannot be construed as a blanket license or a roving commission untrammelled by any constitutional restraint, to disregard or transgress upon the rights and liberties of the individual citizen enshrined in and protected by the Constitution. The Constitution remains the supreme law of the land to which all officials, high or low, civilian or military, owe obedience and allegiance at all times.

x x x

Be that as it may, however, the decisive factor in this case, in our view, is the language of Article 32. The law speaks of an officer or employee or person “directly” or “indirectly” responsible for the violation of the constitutional rights and liberties of another. Thus, it is not the actor alone (i.e. the one directly responsible) who must answer for damages under Article 32; the person indirectly responsible has also to answer for the damages or injury caused to the aggrieved party.

By this provision, the principle of accountability of public officials under the Constitution acquires added meaning and assumes a larger dimension. No longer may a superior official relax his vigilance or abdicate his duty to supervise his subordinates, secure in the thought that he does not have to answer for the transgressions committed by the latter against the constitutionally protected rights and liberties of the citizen. Part of the factors that propelled people power in February 1986 was the widely held perception that the government was callous or indifferent to, if not actually responsible for, the rampant violations of human rights. While it would certainly be too naive to expect that violators of human rights would easily be deterred by the prospect of facing damage suits, it should nonetheless be made clear in no uncertain terms that Article 32 of the Civil Code makes the persons who are directly, as well as indirectly, responsible for the transgression joint tortfeasors.

Even assuming that these victims and these “enemies of the state” are indeed guilty of crimes against the nation, they have not been convicted of the said offenses. If some military elements indeed had reason to believe that these persons were NPA agents or operatives, then they could have simply instituted the proper criminal actions against them and had them arrested. By declaring persons enemies of the state, and in effect, adjudging them guilty of crimes, these persons have arrogated unto themselves the power of the courts and of the executive branch of government. It is as if their judgment is: These people, as enemies of the state, deserve to be slain on sight. This, they cannot do. Such an abuse of power strikes at the very heart of freedom and democracy, which are, ironically, the very bylines and principles these rogue elements invoke in seeking the “neutralization” of these so-called enemies of state.

...

RESPECTFULLY SUBMITTED.

January 22, 2007.

JOSE A. R. MELO, ASSOCIATE JUSTICE (Ret.), SUPREME COURT

Chairman

NESTOR M. MANTARING, DIRECTOR,
NATIONAL BUREAU OF INVESTIGATION

Commissioner

JOVENCITO R. ZUÑO, CHIEF STATE PROSECUTOR

Commissioner

NELIA T. GONZALEZ, REGENT, UNIVERSITY OF THE PHILIPPINES

Commissioner

REV. JUAN DE DIOS M. PUEBLOS, D.D., BISHOP OF BUTUAN

Commissioner

Attested:

ATTY. ROGELIO A. VINLUAN

General Counsel

Appendix III: Open letters to the Philippine authorities

1. A functioning and effective policing and judicial system is required if extra-judicial killings are to be properly prosecuted and prevented

AHRC-OL-002-2006, January 11, 2006

Hon. Raul Gonzalez
Secretary
Department of Justice
DOJ Bldg., Padre Faura
1004 Manila
PHILIPPINES

Fax: +63 2 521 1614
Email: sechbp@infocom.com.ph

Dear Mr. Gonzalez

PHILIPPINES: A functioning and effective policing and judicial system is required if extra-judicial killings are to be properly prosecuted and prevented

The Asian Human Rights Commission (AHRC) is in receipt of your letter dated 13 December 2005 detailing the Philippine government's response to our concern about the unabated incidents of extra-judicial killings and violence against activists, the lack of witness protection and the failures in police investigations. In your letter you said: "I assure you that the Philippine government never condones murders, assassinations, killings and other violent acts against activists or protesters. All reported killings incidents are promptly and meticulously investigated by the police and other intelligence unit".

While we appreciate these assurances, there was no mention of exactly how this is being done or how justice and human rights protection are effectively being upheld. Your Department acknowledges the need for witnesses as an essential requirement for prosecution but, did not elaborate on how it is

responding to ensure their protection and security, as stipulated in RA 6981, an Act for Witness Protection, Security and Benefit. As you are aware, the AHRC has previously sent you many letters requesting your intervention in providing protection to witnesses. Yet despite our request and your department's obligations to implement the provisions of the Act, we are unaware of any action taken in the cases we have forwarded to you.

Under Section 3 of RA 6981, any person who has witnessed or has knowledge or information on the commission of a crime and has testified or is testifying or about to testify before any judicial or quasi-judicial body, or before any investigating authority, may be admitted into the programme. Additionally, one of the conditions is that any member of a family subjected to threats on their lives shall likewise be admitted. In line with this, the AHRC wishes to bring your attention your department's failure to apply the conditions of the Act to potential witnesses and relatives of the dead.

We specifically draw your attention to the killings of activists who failed to receive security and protection from the police; a witness killed prior to testifying in court; another witness fleeing for fear of his life; and the many families who have failed to secure protection and as a result are reluctant to cooperate in any investigation for fear of their lives. Despite your department having been made aware of these situations, to our knowledge no adequate action has been taken.

Mr Norman Bocar, a lawyer from Eastern Samar, was killed on 1 September 2005. Prior to his death Bocar sought the help of the police for his security following serious threats against his life. It is not known however, whether the police acted on his request. The police investigation into his death has reached no conclusive findings and the perpetrators were not identified. The police formed "Task Force Bocar" to investigate the killing but this has failed to bring any justice to this case.

Mr Joel Reyes was killed on 16 March 2005 in Panganiban, Camarines Norte. The lone witness to his case, Dario Oresca, was also slain before he could testify in court. Even though the local police were aware of the threats made against Oresca, he was not placed under any protection. In a letter to the AHRC, the Commission on Human Rights (CHR) regional office in Naga City, the Commission's special investigator, Raymundo de Silva admitted failure of the RA 6981. De Silva said that the programme was not yet thoroughly understood by the populace.

Although De Silva concluded in his findings that the killing of Reyes and Oresca could have been perpetrated by a reformist armed group critical of the communist movement and identified two alleged perpetrators, named only as Ka Clito or Ka Abril and Ka Darlin or Ka Love, these persons have not been located. Thus, the case will be highly jeopardised by the absence of a prosecution witness in court.

Mr Felidito Dacut, a human rights lawyer, was slain on 14 March 2005 in Tacloban City. In a 30 May 2005 letter received by the AHRC from the Commission on Human Rights (CHR) regional director, Mr Paquito Nacino stated that the witness in his case, Felix Dumlao, could no longer be located, thus jeopardising the process in prosecuting the perpetrators. Dumlao soon after went into hiding for fear for his life. The AHRC is unaware of any action taken by the government to locate him or provide him with security under RA 6981.

Mr Alfredo Malinao and Fr. Edison Lapuz were slain on 12 May 2005 in San Isidro, Leyte. An inquiry conducted by the CHR regional director, Mr Nacino has revealed that their relatives are either reluctant or not cooperating in their inquiry. The relatives' reluctance to cooperate does not constitute a disinterest in pursuing this case, but rather demonstrates the fear they have for their security should they become involved.

Additionally, the AHRC has observed that of those investigations conducted into extra-judicial killings and violence against activists by the police, their actions have been completely inadequate. We are unaware of any effort to maximise the country's forensic or scientific methods of investigation. If this in fact has been done, why then have the police failed to identify the suspects in most cases? Why too has the government failed to arrest and prosecute the hit-and-run squads who continually evade the law?

While we appreciate the government's written concern and assurance that it will remedy this situation, mere words alone will not ensure this. Government's assurances are empty and have no meaning to the families of the dead if they continue to endure serious threats to their lives and the perpetrators continue to remain at large.

Protection of human rights, in particular the right to life – as a non derogable right – is clearly stipulated in the International Covenant on Civil and Political Rights (ICCPR), of which the Philippine government has ratified. However, there is a 'key challenge of accountability' regarding how these rights are enjoyed by Filipinos. In his annual report for 2005, Mr Philip Alston, UN Special Rapporteur for extra-judicial, summary or arbitrary executions clearly states that: "The essential thrust of international human rights law is to establish and uphold the principle of accountability for measure both to protect human rights and to respond fully and appropriately to violations of those rights."

Thus, the responsibility of the Philippine government to properly intervene in this matter does not only include "prompt and meticulous" investigation, but also requires an adequate effort to protect victims and witnesses in order to prevent the violence from reoccurring. Therefore, it is essential that the witness protection mechanism be functional and effective and

provided in all cases where required. This is a precondition to uphold the protection of human rights envisaged in the ICCPR Covenant.

Unless the government assumes responsibility and accountability to find effective remedies to prosecute the perpetrators of these killings and prevent further violence against its citizens, in particular against human rights and political activist, the competence of the country's policing and judicial system will continue to be challenged.

I trust that these concerns that I have raised will be acted upon appropriately.

Yours sincerely,

Basil Fernando
Executive Director
Asian Human Rights Commission

2. Brutal beating of a person by the police was not a “justifiable degree of force”

AHRC-OL-004-2006, March 9, 2006

Senior Superintendent Alfredo Toroctocon
City Police Director
General Santos City Police Office (GSCPO)
Camp Fermin G. Lira
9500 General Santos City
PHILIPPINES

Tel. No.: +63 83 554 6606

Pages: 2

Dear Sr. Supt. Toroctocon

PHILIPPINES: Brutal beating of a person by the police was not a “justifiable degree of force”

The Asian Human Rights Commission is in receipt of your letter dated 21 January 2006 in which you deny allegations of torture on Haron Abubakar Buisan by elements of the General Santos City Police Office (GSCPO), and in particular the Special Weapon and Tactics (Swat), to which you are the Director.

Although not referring directly to Buisan's case, you wrote that a certain “justifiable degree of force” could be applied as a Standard Operating Procedure (SOP) when a person resisted arrest in order to immobilise him. Do you subscribe as justifiable your police's act of allegedly brutally beating Buisan even though there was no resistance on his part and that he was already in their custody?

We are aware that Buisan was kicked and repeatedly beaten all over his body with a stone following his arrest on 12 December 2005. We are also aware that Buisan was beaten despite there being no justifiable circumstance for the police to use force on

him. He was not armed and did not resist when arrested at a police checkpoint. We are also aware that while he was subjected to custodial investigation at your headquarters, he was tortured further.

You mentioned that the Miranda Doctrine was observed by your men when arresting Buisan. Are you claiming that there was no violation when the arresting officers failed to inform Buisan of the nature of the charges against him upon arrest, to show him the valid warrants for his arrest, to inform him of his right to remain silent, and in denying him legal counsel of his choice while under custodial investigation?

If indeed these procedures and the doctrine were observed by your police during Buisan's arrest, why are there reports regarding allegations of irregularities in the conduct of arrest, detention and treatment of the victim while in police custody? Furthermore, why have the police reportedly not been transparent with the victim's family, in particular in providing them the results of the victim's medical examination?

While we recognise the order of the Regional Trial Court (RTC) by Judge Isaac Alvero V. Moran issued on 23 December 2005 denying the victim's application for habeas corpus and subsequently confirming that Haron Abubakar Buisan and Ariel Bansalao, a person charged for robbery with homicide are the same, we strongly maintain that this does not give the police immunity in torturing the victim.

The use of torture in any circumstance is totally unacceptable. This is evident in the 1987 Philippine Constitution, Article 3, Section 12 (2) which stipulates that: "no torture, force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against him (any persons)". Additionally, the Republic Act 7438 stipulates the rights of persons arrested, detained or under custodial investigation, which were clearly violated in this case.

We deeply regret that you have justified the acts of your men while arbitrarily denying the victim of his constitutional rights. We are extremely disappointed that no appropriate investigation was conducted and that the police involved have not had to answer to the allegations made against them. We urge you to take effective steps to comply with the existing complaint mechanism in the police service.

We are deeply concerned by the continued denial of appropriate medical treatment and rehabilitation for the victim to ensure his full recovery. As the arresting officers, the local police are obligated according to law to ensure the victim's health. We are completely unaware of any intervention made by your office on this matter.

We take this opportunity to inform you of the order issued by Regional Trial Court (RTC) Judge Oscar Noel on 17 January 2006 to conduct a reinvestigation into the charges of robbery with

homicide against Buisan. We were informed that contrary to the earlier ruling, there is now reasonable ground to look into the victim's claim of mistaken identity. We urge your full cooperation on this matter.

We trust that you will take effective action in this case.

Yours sincerely,

Kate Hurst

Urgent Appeal Programme Coordinator

Asian Human Rights Commission

3. Police chief must aim to identify, arrest and prosecute killers of human rights defenders

AHRC-OL-025-2006, July 6, 2006

Director General Oscar Calderon

Chief, Philippine National Police

Camp General Rafael Crame

Quezon City

PHILIPPINES

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Dear General Calderon

PHILIPPINES: Police chief must aim to identify, arrest and prosecute killers of human rights defenders

The Asian Human Rights Commission (AHRC) wishes to congratulate you on your appointment as the new chief of the Philippine National Police (PNP) on 5 July 2006.

On the occasion of your appointment, the AHRC wishes to suggest to you that your top priority as police chief must be to address the unabated killings of human rights defenders and social activists in the Philippines. We are aware that you are well-informed of these killings, most of which remain unsolved.

Your predecessor, General Arturo Lomibao, gave assurances that these killings would be investigated and perpetrators arrested. We are disappointed that this did not happen prior to his retirement; however, we note that the PNP was made one of the lead agencies in Task Force Usig, a special unit mandated to investigate cases of extrajudicial killings, which was created in May 2006.

Nonetheless, the killings continue and questions about prior killings remain unanswered. In particular, we wish to draw to your attention the following recent cases, in which police have failed to investigate properly or recommend or afford protection to family members of victims or witnesses:

1. George Vigo (33) and his wife Maricel (a.k.a Macel) (36) were killed in Kidapawan City on 19 June 2006. The next day, Task Force Vigo was set up to investigate. The task force has not satisfied the victims' families, whom it duped into signing a paper which they later realised was a complaint against an alleged perpetrator. The task force has worked unprofessionally and without actively involving the concerned families.

2. The investigation into the killing of Reverend Andy Pawican of Pantabangan, Nueva Ecija on 21 May 2006 has also been inadequate. After his dead body was found, relatives reportedly informed a local police station. But instead of registering their account, the police insisted that Reverend Pawican died in an "encounter killing" in Sitio Lomboy, Barangay Tayabo, San Jose at early dawn that day. This assertion contradicts witness accounts.

3. Labour activist Gerardo Cristobal (35) of Imus, Cavite survived an attempt on his life on 28 April 2006, allegedly by local policemen. Cristobal was charged on the same day with frustrated murder of the police who allegedly planned to kill him. The complaint against Cristobal has been lodged by policemen whose subordinates were allegedly part of the extrajudicial killing plot. We are unaware of any impartial investigation conducted into this matter.

4. No conclusive findings have been reached into the shooting death of Enrico G. Cabanit (a.k.a. Ka Eric) of Panabo City, Davao del Norte at a public market on 24 April 2006. Cabanit was with his daughter, Daffodil, when they were attacked; she survived. We are unaware of any protection and security afforded to her and her family since. The police investigating the case have also been unable to establish the identities of the alleged perpetrators.

5. Even if the perpetrators are known, the police have been unable to make arrests. Activists Liezelda Estorba-Cu?ado (a.k.a. Inday) (30) and her partner Gerry (30) of Candijay, Bohol were killed on 3 April 2006. Witnesses identified the gunman as Joel Bayron, believed to be a member of the Barangay (village) Intelligence Network. But Bayron is not known to have been arrested and charged.

6. Similarly, peasant leader Amante Abelon survived an attack by gunmen in San Marcelino, Zambales on 20 March 2006; his wife Agnes and 5-year-old son Amante Jr. were killed. Amante, who was seriously wounded, is not known to have obtained any protection since. Witnesses to the killing have not come forward to testify for fear of their lives.

7. Likewise, witnesses to the presumed abduction of activist Audie Lucero (19) who was found dead near a hospital in Barangay Capitangan, Abucay, Bataan on 13 February 2006 have obtained no protection. Lucero was last seen on February 12 together with

uniformed policemen, reportedly from Balanga Police Station, accompanied by military personnel. No adequate investigation is known to have been conducted into these allegations.

8. Activist Elena Mendiola (a.k.a. Baby) and her partner Ricardo Balauag were killed on 10 May 2006 in Barangay Garit, Echague, Isabela. Elena had survived an earlier attempt on 10 March 2006, after which she was not afforded any protection by the authorities. The lack of concern for her security, despite her life obviously being in danger, cost her and her partner their lives.

These are a few among the extraordinarily large number of killings that have been documented by the AHRC and other groups in recent times. Together they speak to a total failure of the criminal investigation, witness protection and policing system of the Philippines when it comes to the lives of human rights defenders and social activists.

The Witness Protection Security and Benefit Act (6981) does not appear to be operative at all. Nor are we aware of any efforts made by the police to recommend that persons at risk be recommended to the Department of Justice as beneficiaries under this law.

Over a month since Task Force Usig was created there is no evidence of any substantial progress in its work. No results of its findings or progress of its investigations have been made public, in order that concerned persons in the Philippines and abroad be able to discuss its work and engage the government on the basis of recommendations given by the task force.

The Asian Human Rights Commission therefore urges you as the new chief of the Philippine National Police to exhaust all possible means to prevent further killings and place the investigations of earlier incidents as your foremost priority. We call upon you to make a public commitment to the victims, their families and witnesses in these cases. It is not sufficient to say that simply addressing the unrelenting killings is a part of your agenda: it must be at the TOP of your agenda. Perpetrators must be identified, arrested and prosecuted. Witnesses and families must be protected. The killings must stop.

The credibility and efficiency of your leadership and that of the Philippine National Police, not to mention your country's reputation internationally, rests upon your response to these killings. We sincerely hope that you will take your duty in this regard with the utmost seriousness and look forward to your firm action accordingly.

Yours sincerely

Basil Fernando

Executive Director

Asian Human Rights Commission, Hong Kong

4. Alleged rights abuses by army demand full investigations, not whitewashing

AHRC-OL-035-2006, July 27, 2006

Director General Oscar Calderon
Chief, Philippine National Police
Camp General Rafael Crame
Quezon City
PHILIPPINES

Fax: +63 2724 8763

Dear General Calderon

PHILIPPINES: Alleged rights abuses by army demand full investigations, not whitewashing

The Asian Human Rights Commission (AHRC) has read with concern your interview published in the Philippine Daily Inquirer of 25 July 2006 entitled, "PNP clears Palparan on killings". The article refers to how you have exonerated Major General Jovito Palparan, the commander of the 7th Infantry Division of the Philippine Army from allegations of serious rights violations.

As you are aware, the AHRC has sent both you and your predecessor the details of a number of alleged grave human rights violations, including killings, by Palparan and his subordinates. We have rightly sought impartial and effective investigations into these. It therefore comes as a shock to the AHRC to read the remark attributed to you that, "[Palparan] was never implicated in any of our investigations so we have never asked for his statement (regarding the allegations)."

Allow us to take a moment to remind you of some of the recent incidents attributed to troops under the command of Major General Palparan:

1. **FORCED DISAPPEARANCE:** On the night of 13 October 2005, Tomas Paras, a 47-year-old rebel returnee was arbitrarily arrested and taken away by elements of 24th Infantry Battalion, one of whom was reportedly Staff Sergeant Elizaldo Betty. He has not been seen since. No investigation is known to have been conducted.

2. **TORTURE & INTIMIDATION:** In November 2005, labour leader Enrico Estarez was alleged to have been threatened by an officer and men attached to the 24th Infantry Battalion in San Miguel, Bulacan. Estarez went into hiding; three of his colleagues, namely Francis Paraon, Reynaldo Pizon and Herminio Zuniga, were reportedly tortured at a military detachment. No charges are known to have been laid. Estarez and his family have not received any government-sponsored protection.

3. **INTIMIDATION:** Since December 2005, 54-year-old Yolanda Lorenzana, her daughter Aileen Gutierrez, and her ten children have left their village in Barangay Pinaod, San Ildefonso, Bulacan,

for fear of the lives due to continuous harassment by the military. Elements of the 24th Infantry Battalion led by Master Sergeant Rollie Castillo allegedly forced Yolanda to disclose the whereabouts of two men, identified as “Emon” and “Ogie”, whom they claimed to be rebels and the sons of Lorenzana. There has been no known investigation into the family’s alleged intimidation.

4. **EXTRAJUDICIAL KILLING:** On 16 January 2006, 61-year-old activist Ofelia Rodriguez (a.k.a. Nanay Perla) of Barangay Divisoria, Mexico, Pampanga, was shot dead by two gunmen believed to be working for the military. Prior to the murder, 2nd Lt. John Paul Nicolas, head of the 69th Infantry Battalion, allegedly threatened to kill Rodriguez and had given a gun to her neighbour in order to carry out the killing. Earlier she was reportedly forced to state that she was a rebel leader. We are not aware of any progress in the murder investigation, or inquiries about the army’s alleged role.

5. **ABDUCTION & EXTRAJUDICIAL KILLING:** On 31 January 2006, Allan Ibasan and Dante Salgado were found dead at a funeral home a day after they were arrested and forcibly taken in Sta. Ignacia, Tarlac, allegedly by four military men attached to the 71st Infantry Battalion. It is reported that seven other villagers were harassed, namely Glen Ibasan (17), Cesar Andaya (44), Annie Salgado, Reynaldo Reyla, Ricky Salgado, Eduardo Magallanes, Dominic Reyla. Again the soldiers are not known to have not been investigated regarding their possible involvement in the killings.

6. **EXTRAJUDICIAL KILLING:** On 13 February 2006, 19-year-old activist Audie Lucero was found dead in Barangay Capitangan, Abucay, Bataan, nearby a hospital where a day earlier he was seen when the building was approached by Lubao (Pampanga) Police, and then by more than ten personnel of the 24th Infantry Battalion. Yet again, there is no known investigation into the alleged connection between his killing and the security forces present at the time.

7. **FORCED DISAPPEARANCE & INTIMIDATION:** On 14 February 2006, villagers Reynaldo Manalo (32) and Raymond Manalo (22) of Barangay Bohol na Mangga, San Ildefonso, Bulacan were reported to have been illegally arrested by elements of the 24th Infantry Battalion headed by Master Sergeant Rollie Castillo and subsequently disappeared in San Ildefonso, Bulacan. Several of their relatives, namely Jesus Manalo, his wife Ester, Reynaldo’s wife Maria Leonora, and the victims’ cousin Celeste and seven children were also reportedly threatened. Reynaldo and Raymond’s whereabouts are unknown. Again, there is no known investigation of the troops’ alleged role.

8. **FORCED DISAPPEARANCE:** On 6 March 2006, labour leader Rogelio Concepcion (36) was forcibly abducted and disappeared by armed men in Barangay Mataas na Parang, San Ildefonso, Bulacan. Witnesses allege that military men were in the area

at the time of the abduction, and that Concepcion was a target due to his criticism of a military deployment inside the factory where he worked as an organiser.

9. **FORCED DISAPPEARANCE:** On 3 April 2006, 24-year-old activist Ronald Intal of Barangay Asturias, Tarlac City, was forcibly abducted and subsequently disappeared, allegedly by armed men who were seen taking him towards a military detachment in Barangay Asturias, Tarlac City, where elements of the 70th Infantry Battalion are stationed. He has not been seen since. Those allegedly involved are not known to have been investigated.

As you will agree, these are serious allegations of grave abuses committed by troops under the command of Major General Palparan. In fact, they are but some among many such allegations. Yet in effect you have reportedly cleared him of wrongdoing even without having investigated these incidents or having called him to respond to the substantial allegations of rights violations committed by his subordinates.

Regardless of whether or not Major General Palparan was directly involved in any of the alleged abuses, which remain unclear, he is ultimately answerable for the actions of his men. As you will understand very well, the principle of command responsibility is central to the maintenance of discipline in any security force. Where an officer is shown to be beyond the law by virtue of his rank, and not liable for the wrongdoing of those under his orders, it sends a message that it is impunity rather than law that rules the day. It sends a message to the victims and their families that there is no point in seeking justice. It sends a message to the perpetrators of killings, torture and abductions that they are free to continue without fear of retribution. It is therefore essential that senior officers are held to account.

The Asian Human Rights Commission strongly insists that unless these and other similar allegations are adequately and effectively investigated, there can be no justification to exonerate either Major General Palparan or any of his accused subordinates. We urge you to retract your publicly reported statement freeing the major general of responsibility, and instruct your subordinates to continue with their inquiries as their top priority. They must exhaust all means possible to ensure that conclusive and strong cases are brought before the courts and the perpetrators of these serious crimes fully prosecuted.

In this, we wish to remind you of the commitment given by President Gloria Macapagal-Arroyo in her State of the Nation Address on 24 July 2006: "In the harshest possible terms I condemn political killings. We together stopped judicial executions with the abolition of the death penalty. We urge witnesses to come forward. Together we will stop extrajudicial executions."

Extrajudicial executions and related gross abuses of human rights will only stop, and witnesses come forward, when you as the chief of police recognise that the perpetrators of killings are

members of the armed forces, police, paramilitaries and persons working for them, and make as a top priority the pursuit, investigation and prosecution of the perpetrators. We urge you to do this without delay, and respond to the commitment of your president in real and unequivocal terms that will send a message to the victims and perpetrators alike that these killings and abductions will not be tolerated.

Yours sincerely

Basil Fernando

Executive Director

Asian Human Rights Commission, Hong Kong

5. Urgent need for Ombudsman to demonstrate efficiency in resolving cases

AHRC-OL-053-2006, August 25, 2006

Mr Orlando Casimiro

Deputy Ombudsman

Office of the Deputy Ombudsman for the Military and

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PHILIPPINES

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Dear Mr Casimiro

PHILIPPINES: Urgent need for Ombudsman to demonstrate efficiency in resolving cases

The Asian Human Rights Commission (AHRC) is writing to you having learnt of your letter to the editor published in the Philippine Daily Inquirer on 22 July 2006, entitled "Baseless complaint vs. graft-buster". In the last paragraph of that letter you quote the 2005 Ombudsman's annual report in order to assert that the part of the office under your authority is "the highest performing office in terms of cases resolved". This remark seeks to give the impression that your agency is performing well.

We regret to differ. You are surely aware that the AHRC has in recent times actively and sincerely approached your office and sought intervention on a number of serious cases involving police and military personnel. We have rightly asked you to conduct thorough investigations, recommended the filing of appropriate charges in court, the imposition of sanctions and immediate action on the cases endorsed to you for review. Regrettably, the results of these requests have not been commensurate with our efforts. Allow us to remind you of some of these:

1. Your office has failed to act on the recommendation made by the Commission on Human Rights (CHR VIII) to file multiple murder and attempted murder charges against a military major,

his two sergeants and a corporal involved in the killing of nine peasants in Palo, Leyte on 21 November 2005. The Commission endorsed its findings for your review in February but your office has yet to act on it. Charges cannot be filed in court as a result.

2. You also failed to act on the recommendations made by the Office of the Provincial Prosecutor to file murder and attempted murder charges against two military lieutenants and their men involved in the killing of three persons and wounding of three others in Kiblawan, Davao del Sur on 8 February 2005. The prosecutor already endorsed the findings to you on July 2005, yet you have failed to resolve the case. The military men involved have not been formally charged in court.

3. We are not aware of any response from your office to the directives of a Regional Trial Court judge on 17 May 2006 to amend the charge of murder to homicide against a military sergeant and his 31 men involved in the killings of Bacar Japalali and his wife Carmen in Tagum City during September 2004. You are aware that the case cannot proceed in court unless your office responds to the judge's directives to determine the nature of the charges against the military.

4. We are not aware of any result of your investigation into the alleged torture of Haron Abubakar Buisan, who was arrested due to mistaken identity by policemen in General Santos City on 12 December 2005. In a letter dated 10 January 2006 you assured us that there would be "an appropriate fact finding investigation" conducted by your office. But to our knowledge there has been no action against the accused police.

5. You made similar assurances concerning the case of slain activists Jose Manegdeg III of San Esteban, Ilocos Sur; Albert Terredano of Bangued, Abra; and Cathy Alcantara of Abucay, Bataan. You have been repeatedly requested to intervene into these cases, but again we are unaware of any conclusive investigation by your office. The perpetrators of these killings--alleged to have been state personnel or persons linked to them--have not even been identified, let alone arrested and charged.

We believe that you will agree with us that any claims of efficiency and high standards of performance by any government office, in particular yours, must be reflected of how this performance contributes to upholding the public interest. Where your office is concerned, there is a special obligation to meet the interests of the victims and family members who are seeking redress for the wrongful acts of military and law-enforcement officers.

When victims are denied speedy disposition of their cases due to inaction and unnecessary delays, while in the meantime they are forced to endure constant threats and insecurity, any public office responsible for this situation is not worthy of citation as "high performing". Only when the needs and interests of these persons and the public are fully met can such praise be given.

For the time being we must withhold any such praise from your office. However, we remain hopeful that this situation may change. We look forward to your office effectively and efficiently dealing with all of the abovementioned cases, as all cases of alleged gross violations by army and police officers that come to its attention, in order to fulfil public expectations as well as those of the parties with a direct interest. We will continue to submit cases to your office and will judge your performance not by numbers in an annual report but by what we clear action we can see in response to these.

Yours sincerely,

Basil Fernando
Executive Director
Asian Human Rights Commission

6. HRC Commissioner exhibits lack of concern for human rights crisis in the country

AHRC-OL-062-2006, November 6, 2006

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Dear Commissioner Quisumbing

PHILIPPINES: HRC Commissioner exhibits lack of concern for human rights crisis in the country

We are writing to you regarding the position you have taken, as reported the Philippine Daily Inquirer on November 4, 2006, following the Philippines' election on November 2, 2006, as a member of the United Nation's Economic and Social Council (ECOSOC). The Philippines received the most votes in the election, gaining 188 out of 192 votes. 18 seats to the 54-member Council were being contested in this election.

You were quoted as having lauded Ambassador Lauro Baja Jr., the permanent representative of the Philippines to the UN for [his] "engineering an exceptional win for the Philippines, despite criticisms and negative reports from non-governmental organizations and the media." Your remarks seem to discredit NGOs and the media for any "negative" reports concerning the country's human rights record and imply that these reports are unhelpful, and this despite the unquestionable fact that a large number of extra-judicial killings and forced disappearances are being perpetrated in the country.

While it can be said that the election of the Philippines to the ECOSOC Council is a victory at the diplomatic level for the country, this should not be seen as a vindication of the Philippines' human rights record or a laundering thereof.

Having taken this position, can you confirm that you believe that the government's current human rights record enables it to have the credibility and reputation required to represent the global community? Are you convinced that the government is in fact conducting itself in line with the highest standards concerning the implementation of human rights recognized in the International Covenants and Conventions to which the Philippines is party? Are you of the opinion that the government is effectively implementing its laws on economic and social reform, more specifically the Social Reform and Poverty Alleviation Act (RA 8425), Comprehensive Agrarian Reform Law of 1988 (RA 6657) and Urban Development and Housing Act (RA 7279)?

Furthermore, do you claim that your office has adequate capacity and the Constitutional mandate to investigate, seek justice and provide compensation for human rights victims involving economic and social rights?

We are disappointed by the position you have taken, since we do not believe that the situation of human rights in the Philippines is in any way a matter that can be celebrated, or that the Philippines can be considered as a credible ambassador of human rights at the international level. The attack on the credibility and roles of NGOs and the media from a person in your position is a serious concern. We strongly believe that the above questions require clear answers, in light of your recent comments. It would be interesting to understand how you can characterize the situation in the country as anything other than "negative" at present.

We would also like to draw your attention to why we believe the Philippines, under the current administration, does not deserve its ECOSOC seat or its membership in the UN Human Rights Council.

Extra-judicial killings and disappearance of social activists continue unabated

The relentless extra-judicial killing and forced disappearance as well as the continuing threats to activists and leaders from various sectors, including peasants seeking genuine land reform, fisher folks, the urban poor, labour groups and indigenous peoples' groups, are a stark manifestation not only of the government's inability to protect the lives of its citizens but also the undue punishment of those who seek to protect them. You are aware of the number of cases sent to your office and the fact that most of the perpetrators of these acts have not been identified, arrested and charged in court. In cases where suspects or perpetrators have been identified, there are rarely arrests and, even when there are, such cases are showing little or no progress in court.

The activists and leaders facing threats, along with their families, have not been afforded any meaningful protection. The continuing insecurity of witnesses of killings and the families of the deceased is preventing the effective prosecution of perpetrators in court.

Ineffective implementation of poverty alleviation, agrarian reform and urban poor development laws

On Social Reform and Poverty Alleviation Act (RA 8425):

In September 2005, we sent you hunger-related cases from General Santos City, the Municipality of Alabel in Sarangani and Guindulungan, Maguindanao. These cases involve hunger-related deaths, severe malnutrition, villagers being forced to eat poisonous frogs for lack of food, children forced to sleep with empty stomachs and villagers facing continuing threats of hunger due to sporadic fighting. Although interventions were made on this, the AHRC is unaware of any sustained support afforded to the affected families to combat the hunger and malnutrition. In fact, the family of an infant who died due to severe malnutrition in General Santos City is still experiencing hunger and extreme poverty to date.

Even the creation of the National Anti-Poverty Commission (NAPC), which was mandated under Section 5 of RA 8425, to formulate and review policies on poverty-reduction, has had no significant positive impact on the lives of the majority of its planned beneficiaries. The rising number of hunger incidents all over the country underlines the ineffective implementation of the NAPC's poverty-reduction and social reform program.

On Comprehensive Agrarian Reform Law of 1988 (RA 6657):

After RA 6657 was enacted, most of the land reform beneficiaries have not been able to claim land ownership as provided for by the land reform law. Peasants and land reform beneficiaries are killed and harassed almost daily for asserting their Constitutional rights to land ownership. Some of the land reform beneficiaries were even only made aware of the law years after it was enacted. This is true of the cases of farm beneficiaries in Bondoc Peninsula in the province of Quezon, in Hacienda Luisita in Tarlac and in Balasan, Iloilo, as well as in other similar cases of farmers seeking genuine land reform around the country.

On Urban Development and Housing Act (RA 7279):

Although this law requires that relocation sites should be made available before urban poor villages are demolished, in practice, they are not. The AHRC is aware of a number of cases where urban poor villages have been illegally and violently demolished, with villagers being denied relocation sites and losing their livelihood due to these forced evictions. Take the case we sent to your offices regarding the settlers in Dacudao Compound in Agdao, Davao City in March 2005 and in Mactan, Lapu-lapu City in September 2006. These state-perpetrated forced evictions have had a significant negative impact on the lives of the affected

settlers. They were not provided with relocation sites, compensation or alternative means of making a livelihood in order to ensure their subsistence. This is a further illustration of the government's complete disregard for its citizens' rights to adequate housing and economic rights.

Alongside these issues, the AHRC is also concerned that the Human Rights Commission does not have the Constitutional mandate to intervene with regard to economic, social and cultural rights violations. We are aware that Article XIII, Section 18 (1) of the Philippine Constitution stipulates that "the [Commission on Human Rights] investigates "violations involving civil and political rights". While we appreciate that there have been efforts by the Commission to include investigation on economic, social and cultural rights violations, we are deeply concerned by its lack of a Constitutional mandate to carry out these activities. We strongly believe that unless the Commission has had a clear mandate it cannot effectively function and perform its duties. We are aware that the Commission's ability to investigate violations of economic and social rights is restricted by mandate limitations. The capabilities of the Commission's investigators concerning labour and agrarian related cases are not satisfactory.

How can the Commission perform its duties and function effectively with regard to economic, social and cultural rights when it has no Constitutional mandate to do so? What is the Commission doing to have this situation changed?

The AHRC is seriously concerned by your comments, notably as they appear to brand the media and NGOs as disruptive and "negative" forces when they take up human rights issues. The media and the NGOs play a significant role in the protection and promotion of human rights and in attempts to make the authorities accountable for their actions where violations occur. These activities should be welcomed by the Human Rights Commission, if it is indeed itself engaged in the protection and promotion of human rights in good faith. It is vital that the Human Rights Commission fulfill its mandate in a transparent and independent manner if it is to be of any value to the people of the Philippines - not just to the country's authorities.

We trust that you will give serious consideration to these matters and will make a public statement of acknowledgement of the gravity of the human rights situation in the country and the importance of the roles of the free press and NGOs with regard to human rights and the creation of a just and humane society in the Philippines.

Yours sincerely,

Basil Fernando
Executive Director
Asian Human Rights Commission

7. The national information agency is not a mouthpiece for police propaganda

AHRC-OL-003-2007, January 19, 2006

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Dear Secretary Limcaoco

PHILIPPINES: The national information agency is not a mouthpiece for police propaganda

The Asian Human Rights Commission (AHRC) is writing to you regarding the press release issued by the Philippine Information Agency on January 12 entitled, "PNP clarifies case of Herman Baria before Asian Human Rights Commission". The press release consisted entirely of remarks by Police Chief Superintendent Geary L. Barias denying any wrongdoing by his subordinates in the killing of Hernan Baria and wounding of Romeo Catalan in Iloilo on 23 July 2005, and contained attacks on the AHRC for its call that there should be an independent inquiry into the incident.

The AHRC is outraged by the contents of this press release. While state officials are perfectly entitled to defend themselves against allegations of human rights abuses, it is not the responsibility of your agency to distribute such defences on their behalf. You are not public relations officers for the police. If they wish to respond, they have their own channels, and the concerned officers may hire legal counsel and obtain other support from the institutions established to assist them. The PIA Charter spells out its mission as "to provide for free flow of accurate, timely and relevant information" in order "to assist people in decision-making and identification of opportunities to improve quality of life" and "to enable citizens to participate meaningfully in the democratic processes". How have any of these functions been fulfilled by your distributing the police account of events that lead to the death of a person, which has never been independently verified?

By giving an entirely one-sided account of the killing and wounding, the press release impliedly validated the police account of what happened to the two victims, without your agency having the means or authority by which to verify the facts. In effect, your office has pre-empted the courts on matters over which they alone have jurisdiction: that is, to judge whether or not the police operation was "legitimate" as claimed, and whether

or not any offences have been committed. It is for this purpose that the AHRC issued its appeal on the case: that there might be a credible, independent investigation by the concerned authorities followed by the necessary judicial intervention. Until this much is done, upon what grounds does your agency have any right to issue press releases on behalf of the police? Without this much being done, what part of your press release could be deemed “accurate”?

By reproducing what amounts to a factually erroneous rebuttal of some serious allegations against the police, your agency’s credibility has been severely damaged, as has that of the entire Philippine administration. It casts serious doubts on the sincerity of the state to afford redress to victims of killings, disappearances, torture and other gross abuses in the Philippines. It further isolates victims and their families, and boosts the impunity and fear that is spreading throughout the country. It also undermines the role of the justice system and increases public distrust in the capacity of the state to respond to the very grave human rights abuses that are going on constantly in the Philippines.

Your agency has a crucial role and great responsibility to the people of the Philippines. On this occasion you have somehow confused that role with the acting as a mouthpiece for police propaganda. The Asian Human Rights Commission urges you to rescue your reputation and restore some confidence in the work of the government of the Philippines on human rights issues by

1. Retracting the January 12 press release and issuing a public apology to the families of the victims without delay.
2. Conducting an inquiry to establish and discipline the person or persons in your office responsible for the press release.
3. Undertaking that no further such press releases will be issued in the future and that reporting by the agency will in fact be based upon facts rather than one-sided and unproven statements from the police or any other state officers.

The credibility and reputation of any media institution--be it public or private--depends on the accuracy, fairness and independence of its reporting. While your agency is justified in concentrating its reports on the work of state officials and their offices, you cannot afford to confuse this legitimate exercise with becoming an accomplice to contrived and manipulated information aimed at exonerating authorities from wrongdoing or achieving other dubious ends. Do not allow yourselves to be used. If you make that mistake, you will lose the trust of the public in the Philippines and very many other interested persons and organisations beyond its borders, and become known as nothing other than a mouthpiece for state propaganda.

Yours sincerely

Basil Fernando
Executive Director
Asian Human Rights Commission

8. Retract statement justifying killing & order impartial investigation

AHRC-OL-004-2007, January 23, 2007

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Dear General Calderon

PHILIPPINES: Retract statement justifying killing & order impartial investigation

The Asian Human Rights Commission (AHRC) writes to express our outrage at a recent statement by a senior police officer issued through the Philippine Information Agency asserting that the killing and wounding respectively of two men was due to a “legitimate police operation”, and to call for a retraction of the statements and a proper investigation into the incident, as demanded by human rights defenders in the Philippines and our organisation.

On January 12, the national information agency issued a press release quoting former Police Regional Office 6 director Chief Superintendent Geary Barias justifying the killing and wounding of two agrarian reform activists, Hernando Baria and Romeo Catalan, on 23 July 2005 in Balasan, Iloilo. The release goes on to accuse the AHRC of spreading false information about the incident.

The AHRC flatly rejects Barias’ assertions and demands that the Philippine National Police makes clear on what grounds and in what capacity he was making his remarks. No mention is made in the statement of any independent investigation ever having been conducted, as called for by our organisation. Nor is there any indication of under whose authority or in what capacity Barias was making the comments.

Whether the operation was legitimate and can be justified or not is in no way a matter for concerned the police to decide. Those police stand as the accused and comments in defence by the alleged perpetrators or their superiors are of relevance only inasmuch that they may be taken in evidence by independent investigators, and weighed against other statements and evidence by a judicial authority.

In October 2006 we in fact called upon you to order a fresh investigation into this incident. We are unaware of any impartial or independent investigation since that time. Therefore, the statement of January 12 through the official government mouthpiece amounts to nothing more than an attempt by the former commander of the accused to exonerate his own men and whitewash the case.

We take this opportunity to remind you of just some of the irregularities surrounding the incident, none of which were ever addressed in the Philippine Information Agency's release:

1. Incorrect search warrant

The Regional Trial Court, Branch 66 in Iloilo issued a search warrant for "Herman Baria", not Hernando Baria, the deceased victim. Under the rules of criminal procedure, valid warrants must carry the correct names of persons concerned. In this case the "legitimate police operation" was carried out on an invalid warrant, making it illegal.

2. Terms of warrant breached

The court granted the warrant to search the house of "Herman Baria" but the police used it to search a farmers' training centre, entering around midnight and allegedly failing to identify themselves properly. A copy of the warrant also was not given to the concerned parties until 9am the following morning, although colleagues of the victims had arrived on the scene some six hours earlier.

3. False claim against victims

In his statement, Barias maintains that, "This police operation was a response to the request for protection by local residents against harassment by armed groups of land owner Susan Bedio [sic]." In fact, the victims were members of the Asao Farmers and Residents Association, which has been lobbying for Bedro's landholdings to be turned over to peasants under the Comprehensive Agrarian Reform Program. The claim that they could have been working for Bedro is wholly inconsistent with reality.

4. No protection given to victims

Baria and Catalan had reportedly been requesting police protection prior to the incident, without success. The failure to respond to their requests constitutes a serious violation of the Memorandum of Agreement of 3 May 1995 between the police, Department of Interior and Local Government, and the Department of Agrarian Reform, which obliges the police to render assistance to maintain peace and order in land reform cases (reiterated in Joint Circular No. 05-02).

5. Questionable evidence

The police claim to have recovered firearms and ammunitions from the two victims, but have not produced any independent and verifiable evidence to counter claims that they planted the weapons themselves. Nor are we aware of any other substantive evidence that would demonstrate beyond reasonable doubt the guilt of either of the two men.

6. Inconsistent reports

According to the information received by the AHRC, the police seizure report states that Catalan was “not around” when the initial search was conducted. But the January 12 press release acknowledges that the operation resulted in the “wounding of Romeo Catalan”. Furthermore, it states that he is now “facing charges for illegal possession of firearms and armed resistance”. However, Catalan has never received any summons informing him of these or other charges. If charges have been laid, why has the respondent not been informed?

The Asian Human Rights Commission stands by our original demand that you order an impartial and independent investigation into this case and see its findings submitted to a judicial authority. It furthermore calls upon you to take disciplinary action against Chief Superintendent Geary Barias for his premature public defence of his subordinates, which amounts to a completely unacceptable breach of police conduct, and demands that his statement be retracted and an apology issued.

The unrelenting extrajudicial killings in the Philippines and lack of effective independent investigations where police are allegedly to have been involved are a cause for growing international alarm. Greater scrutiny is leading to more and more questions about the actual intentions of the authorities to address these killings. Your action is needed to prevent whitewashing and ensure that the families of victims, survivors and witnesses obtain the justice that they deserve, as well as to protect the credibility and reputation of your agency and the government of the Philippines.

Yours sincerely

Basil Fernando
Executive Director
Asian Human Rights Commission

[Note: Since this letter was published the AHRC was made aware that Chief Superintendent Geary Barias is now head of Task Force Usig, the unit responsible for investigating alleged extrajudicial killings.]

Appendix IV: Witness Protection, Security & Benefit Act

REPUBLIC ACT NO. 6981

AN ACT PROVIDING FOR A WITNESS PROTECTION, SECURITY AND BENEFIT PROGRAM AND FOR OTHER PURPOSES.

Sec. 1. Name of Act. — This Act shall be known as the “Witness Protection, Security and Benefit Act.”

Sec. 2. Implementation of Program. — The Department of Justice, hereinafter referred to as the Department, through its Secretary, shall formulate and implement a “Witness Protection, Security and Benefit Program”, hereinafter referred to as the Program, pursuant to and consistent with the provisions of this Act.

The Department may call upon any department, bureau, office or any other executive agency to assist in the implementation of the Program and the latter offices shall be under legal duty and obligation to render such assistance.

Sec. 3. Admission into the Program. — Any person who has witnessed or has knowledge or information on the commission of a crime and has testified or is testifying or about to testify before any judicial or quasi-judicial body, or before any investigating authority, may be admitted into the Program:

Provided, That:

(a) the offense in which his testimony will be used is a grave felony as defined under the Revised Penal Code, or its equivalent under special laws;

(b) his testimony can be substantially corroborated in its material points;

(c) he or any member of his family within the second civil degree of consanguinity or affinity is subjected to threats to his life or bodily injury or there is a likelihood that he will be killed, forced, intimidated, harassed or corrupted to prevent him from testifying, or to testify falsely, or evasively, because or on account of his testimony; and

(d) he is not a law enforcement officer, even if he would be testifying against the other law enforcement officers. In such a case, only the immediate members of his family may avail themselves of the protection provided for under this Act.

If the Department, after examination of said applicant and other relevant facts, is convinced that the requirements of this Act and its implementing rules and regulations have been complied with, it shall admit said applicant to the Program, require said witness to execute a sworn statement detailing his

knowledge or information on the commission of the crime, and thereafter issue the proper certification. For purposes of this Act, any such person admitted to the Program shall be known as the Witness.

Sec. 4. Witness in Legislative Investigations. — In case of legislative investigations in aid of legislation, a witness, with his express consent, may be admitted into the Program upon the recommendation of the legislative committee where his testimony is needed when in its judgment there is pressing necessity therefor: Provided, That such recommendation is approved by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

Sec. 5. Memorandum of Agreement with the Person to be Protected. — Before a person is provided protection under this Act, he shall first execute a memorandum of agreement which shall set forth his responsibilities including:

(a) to testify before and provide information to all appropriate law enforcement officials concerning all appropriate proceedings in connection with or arising from the activities involved in the offense charged;

(b) to avoid the commission of the crime;

(c) to take all necessary precautions to avoid detection by others of the facts concerning the protection provided him under this Act;

(d) to comply with legal obligations and civil judgments against him;

(e) to cooperate with respect to all reasonable requests of officers and employees of the Government who are providing protection under this Act; and

(f) to regularly inform the appropriate program official of his current activities and address.

Sec. 6. Breach of the Memorandum of Agreement. — Substantial breach of the memorandum of agreement shall be a ground for the termination of the protection provided under this Act: Provided, however, That before terminating such protection, the Secretary of Justice shall send notice to the person involved of the termination of the protection provided under this Act, stating therein the reason for such termination.

Sec. 7. Confidentiality of Proceedings. — All proceedings involving application for admission into the Program and the action taken thereon shall be confidential in nature. No information or documents given or submitted in support thereof shall be released except upon written order of the Department or the proper court.

Any person who violates the confidentiality of said proceedings shall upon conviction be punished with imprisonment of not less than one (1) year but not more than six (6) years and deprivation of the right to hold a public office or employment for a period of five (5) years.

Sec. 8. Rights and Benefits. — The witness shall have the following rights and benefits:

(a) To have a secure housing facility until he has testified or until the threat, intimidation or harassment disappears or is reduced to a manageable or tolerable level. When the circumstances warrant, the Witness shall be entitled to relocation and/or change of personal identity at the expense of the Program. This right may be extended to any member of the family of the Witness within the second civil degree of consanguinity or affinity.

(b) The Department shall, whenever practicable, assist the Witness in obtaining a means of livelihood. The Witness relocated pursuant to this Act shall be entitled to a financial assistance from the Program for his support and that of his family in such amount and for such duration as the Department shall determine.

(c) In no case shall the Witness be removed from or demoted in work because or on account of his absences due to his attendance before any judicial or quasi-judicial body or investigating authority, including legislative investigations in aid of legislation, in going thereto and in coming therefrom: Provided, That his employer is notified through a certification issued by the Department, within a period of thirty (30) days from the date when the Witness last reported for work: Provided, further, That in the case of prolonged transfer or permanent relocation, the employer shall have the option to remove the Witness from employment after securing clearance from the Department upon the recommendation of the Department of Labor and Employment.

Any Witness who failed to report for work because of witness duty shall be paid his equivalent salaries or wages corresponding to the number of days of absence occasioned by the Program. For purposes of this Act, any fraction of a day shall constitute a full day salary or wage. This provision shall be applicable to both government and private employees.

(d) To be provided with reasonable traveling expenses and subsistence allowance by the Program in such amount as the Department may determine for his attendance in the court, body or authority where his testimony is required, as well as conferences and interviews with prosecutors or investigating officers.

(e) To be provided with free medical treatment, hospitalization and medicines for any injury or illness incurred or suffered by him because of witness duty in any private or public hospital, clinic, or at any such institution at the expense of the Program.

(f) If a Witness is killed, because of his participation in the Program, his heirs shall be entitled to a burial benefit of not less than Ten thousand pesos (P10,000.00) from the Program exclusive of any other similar benefits he may be entitled to under other existing laws.

(g) In case of death or permanent incapacity, his minor or dependent children shall be entitled to free education, from primary to college level in any state, or private school, college or university as may be determined by the Department, as long as they shall have qualified thereto.

Sec. 9. Speedy Hearing or Trial. — In any case where a Witness admitted into the Program shall testify, the judicial or quasi-judicial body, or investigating authority shall assure a speedy hearing or trial and shall endeavor to finish said proceeding within three (3) months from the filing of the case.

Sec. 10. State Witness. — Any person who has participated in the commission of a crime and desires to be a witness for the State, can apply and, if qualified as determined in this Act and by the Department, shall be admitted into the Program whenever the following circumstances are present:

(a) the offense in which his testimony will be used is a grave felony as defined under the Revised Penal Code or its equivalent under special laws;

(b) there is absolute necessity for his testimony;

(c) there is no other direct evidence available for the proper prosecution of the offense committed:

(d) his testimony can be substantially corroborated on its material points;

(e) he does not appear to be most guilty; and

(f) he has not at any time been convicted of any crime involving moral turpitude.

An accused discharged from an information or criminal complaint by the court in order that he may be a State Witness pursuant to Section 9 and 10 of Rule 119 of the Revised Rules of Court may upon his petition be admitted to the Program if he complies with the other requirements of this Act. Nothing in this Act shall prevent the discharge of an accused, so that he can be used as a State Witness under Rule 119 of the Revised Rules of Court.

Sec. 11. Sworn Statement. — Before any person is admitted into the Program pursuant to the next preceding Section he shall execute a sworn statement describing in detail the manner in which the offense was committed and his participation therein. If after said examination of said person, his sworn statement and other relevant facts, the Department is satisfied that the requirements of this Act and its implementing rules are complied with, it may admit such person into the Program and issue the corresponding certification.

If his application for admission is denied, said sworn statement and any other testimony given in support of said application shall not be admissible in evidence, except for impeachment purposes.

Sec. 12. Effect of Admission of a State Witness into the Program. — The certification of admission into the Program by the Department shall be given full faith and credit by the provincial or city prosecutor who is required not to include the Witness in the criminal complaint or information and if included therein, to petition the court for his discharge in order that he can be utilized as a State Witness. The Court shall order the discharge and exclusion of the said accused from the information.

Admission into the Program shall entitle such State Witness to immunity from criminal prosecution for the offense or offenses in which his testimony will be given or used and all the rights and benefits provided under Section 8 hereof.

Sec. 13. Failure or Refusal of the Witness to Testify. — Any Witness registered in the Program who fails or refuses to testify or to continue to testify without just cause when lawfully obliged to do so, shall be prosecuted for contempt. If he testifies falsely or evasively, he shall be liable to prosecution for perjury. If a State Witness fails or refuses to testify, or testifies falsely or evasively, or violates any condition accompanying such immunity without just cause, as determined in a hearing by the proper court, his immunity shall be removed and he shall be subject to contempt or criminal prosecution. Moreover, the enjoyment of all rights and benefits under this Act shall be deemed terminated.

The Witness may, however, purge himself of the contumacious acts by testifying at any appropriate stage of the proceedings.

Sec. 14. Compelled Testimony. — Any Witness admitted into the Program pursuant to Sections 3 and 10 of this Act cannot refuse to testify or give evidence or produce books, documents, records or writings necessary for the prosecution of the offense or offenses for which he has been admitted into the Program on the ground of the constitutional right against self-incrimination but he shall enjoy immunity from criminal prosecution and cannot be subjected to any penalty or forfeiture for any transaction, matter or thing concerning his compelled testimony or books, documents, records and writings produced.

In case of refusal of said Witness to testify or give evidence or produce books, documents, records, or writings, on the ground of the right against self-incrimination, and the state prosecutor or investigator believes that such evidence is absolutely necessary for a successful prosecution of the offense or offenses charged or under investigation, he, with the prior approval of the department, shall file a petition with the appropriate court for the issuance of an order requiring said Witness to testify, give evidence or produce the books, documents, records, and writings described, and the court shall issue the proper order.

The court, upon motion of the state prosecutor or investigator, shall order the arrest and detention of the Witness in any jail contiguous to the place of trial or investigation until such time that the Witness is willing to give such testimony or produce such documentary evidence.

Sec. 15. Perjury or Contempt. — No Witness shall be exempt from prosecution for perjury or contempt committed while giving testimony or producing evidence under compulsion pursuant to this Act. The penalty next higher in degree shall be imposed in case of conviction for perjury. The procedure prescribed under Rule 71 of the Rules of Court shall be followed in contempt proceedings but the penalty to be imposed shall not be less than one (1) month but not more than one (1) year imprisonment.

Sec. 16. Credibility of Witness. — In all criminal cases, the fact of the entitlement of the Witness to the protection and benefits provided for in this Act shall not be admissible in evidence to diminish or affect his credibility.

Sec. 17. Penalty for Harassment of Witness. — Any person who harasses a Witness and thereby hinders, delays, prevents or dissuades a Witness from:

(a) attending or testifying before any judicial or quasi-judicial body or investigating authority;

(b) reporting to a law enforcement officer or judge the commission or possible commission of an offense, or a violation of conditions or probation, parole, or release pending judicial proceedings;

(c) seeking the arrest of another person in connection with the offense;

(d) causing a criminal prosecution, or a proceeding for the revocation of a parole or probation; or

(e) performing and enjoying the rights and benefits under this Act or attempts to do so, shall be fined not more than Three thousand pesos (P3,000.00) or suffer imprisonment of not less than six (6) months but not more than one (1) year, or both, and he shall also suffer the penalty of perpetual disqualification from holding public office in case of a public officer.

Sec. 18. Rules and Regulations. — The Department shall promulgate such rules and regulations as may be necessary to implement the intent and purposes of this Act. Said rules and regulations shall be published in two (2) newspapers of general circulation.

Sec. 19. Repealing Clause. — All laws, decrees, executive issuances, rules and regulations inconsistent with this Act are hereby repealed or modified accordingly.

Sec. 20. Funding. — The amount of Ten million pesos (P10,000,000.00) is hereby authorized to be appropriated out of any funds in the National Treasury not otherwise appropriated to carry into effect the purpose of this Act.

Expenses incurred in the implementation of the Program may be recovered as part of the cost or indemnity imposed upon the accused.

Furthermore, other funding schemes or sources, subject to the limitations of the law, shall be allowed in furtherance hereof.

Sec. 21. Separability Clause. — The declaration of unconstitutionality or invalidity of any provision of this Act shall not affect the other provisions hereof.

Sec. 22. Effectivity. — This Act shall take effect after fifteen (15) days following its publication in two (2) newspapers of general circulation.

Approved: April 24, 1991

Appendix V: Online Petition— Stop the killings!

ADD YOUR SIGNATURE: www.pinoyhr.net

Dear Secretary of the Department of Justice

PHILIPPINES: STOP THE KILLINGS NOW

Recent years have seen an extraordinary number of political activists and human rights defenders extra-judicially killed in the Philippines. Reports indicate that approximately 290 such persons have been killed since 2004. These figures and the current situation in the Philippines are entirely unacceptable and require urgent intervention by the Government if the killings are to stop.

The unabated killings and attacks against activists in the Philippines have revealed a completely inadequate response by the government to prevent further deaths and to remedy this worsening situation. The police's responsibility in investigating these cases has fallen completely short of what is required, resulting in the perpetrators, in most cases, having yet to be prosecuted in a court of law. This lack of an effective police investigation into the killings and violence against activists and the Governments seeming unwillingness to properly intervene are the greatest obstacles in prosecuting the perpetrators and bringing an end to these deaths.

It appears that in the Philippines no system exists to properly ensure that perpetrators of serious crimes may be brought to justice for their actions. One of the basic elements of investigation, the gathering of evidence, appears to be non-existent in the Philippines right now. In most of the cases involving the killings of activists, this inability to properly gather evidence has meant that the perpetrators have not even been identified or persons who were present are so afraid that they are unwilling to be witnesses. Owing to this, many of the cases have not even made it to a court of law.

The failure to implement an effective investigation and a functioning witness protection mechanism appear to be major obstacles in bringing justice to cases of extra-judicial killings. Remedying this would require the effective implementation of the Republic Act 6981, an act providing for witness protection, security and benefit, including protection for activists who are facing threats to their lives. This would be extremely beneficial to all activists and human rights defenders who currently face such fears.

The Government of Philippines has failed to respond to the concluding observations and the recommendations made by the Human Rights Committee of the United Nations on 1 December 2003. The Government is obligated to take appropriate action, as State party to the International Covenant on Civil and Political Rights (ICCPR), to the Committee's conclusion and recommendation that reads;

No. 8. " The Committee is concerned about the lack of appropriate measures to investigate crimes allegedly committed by State security forces and agents, in particular those committed against human rights defenders, journalists and leaders of indigenous peoples, and the lack of measures taken to prosecute and punish the perpetrators."

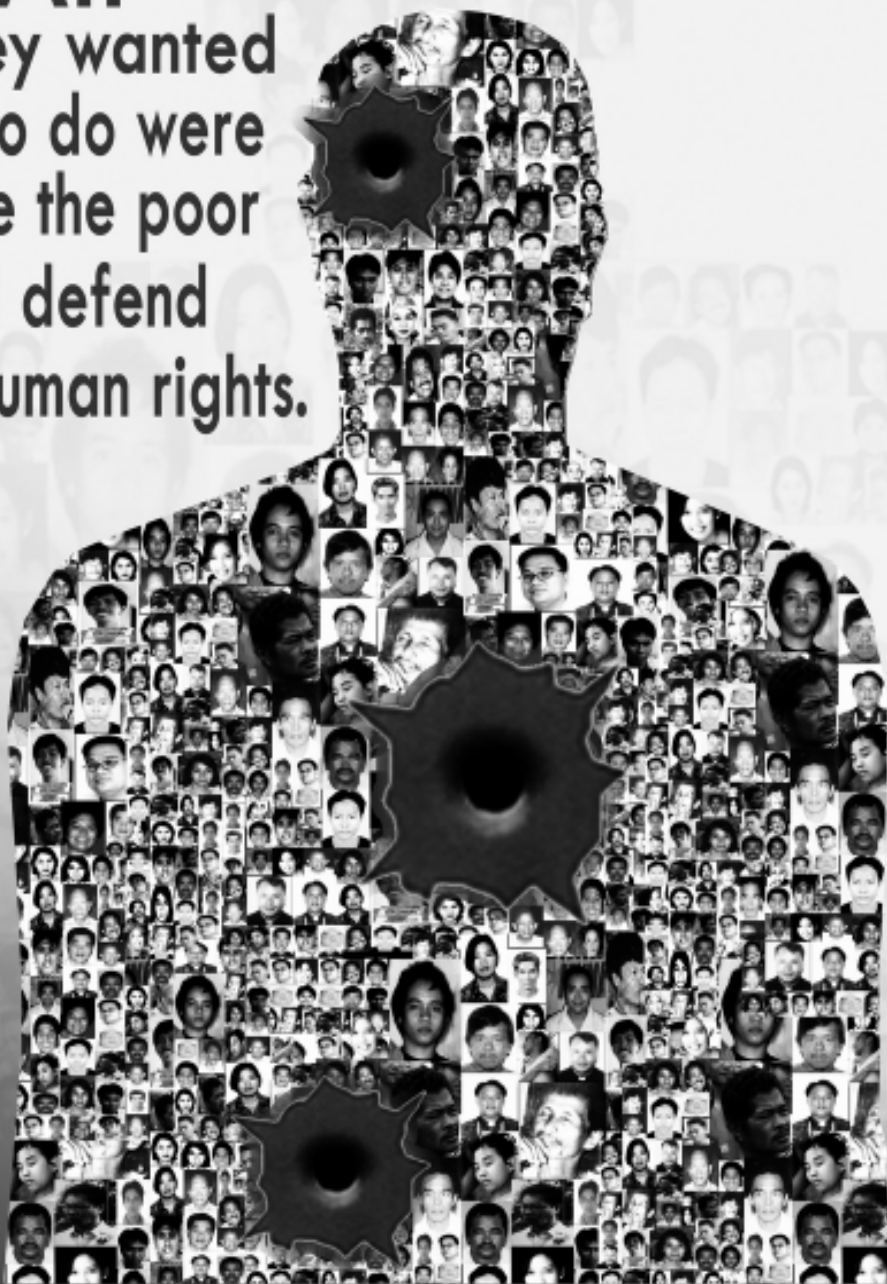
(a)The State party should adopt legislative and other measures to prevent such violations, in keeping articles 2, 6 and 9 of the Covenant, and ensure effective enforcement of the legislation.

The Government's failure to take adequate action in response to these recommendations and to the killings themselves, are clearly depriving Filipinos of their right to life. Such action has terrorised and silenced the people, in particular those critical of the state, which is entirely unacceptable. It has also denied Filipinos of an environment where the basic rule of law exists.

To prevent further killings of activists and human rights defenders and to avert a new social crisis in the country, the government must take immediate action regarding these matters. First, and most obviously, full investigations and judicial inquiries must follow without delay, with a view to holding the perpetrators fully accountable for their crimes and making clear that this pattern of killings will not be allowed to continue. Secondly, witness protection must be given to all persons who have witnessed the crimes. Thirdly, the Commission on Human Rights of the Philippines must play an active role by coordinating its work with the National Bureau of Investigation, rather than waiting for other agencies to take the initiative, and by considering recommendations to indemnify the families of the dead. Fourthly, the Government must condemn and demand the retraction of statements by the armed forces listing groups as 'communist sympathisers'.

Until these measures are taken, the perpetrators will remain free and the killings will undoubtedly continue. The Government of the Philippines must take action if this situation is to be averted.

**All
they wanted
to do were
to serve the poor
and defend
human rights.**



STOP extra-judicial killings and human
rights violations in the Philippines!

Asian Human Rights Commission

Hang Kong Campaign for the Advancement of Human Rights and Peace in the Philippines

International Campaign to Stop the Killings in the Philippines

Appendix VI: Concluding observations of the UN Human Rights Committee on the Philippines

[CCPR/CO/79/PHL, 1 December 2003, extracts]

1. The Human Rights Committee considered the consolidated second and third periodic reports of the Philippines (CCPR/C/PHL/2002/2) at its 2138th, 2139th and 2140th meetings, held on 20 and 21 October 2003 (see CCPR/C/SR.2138, 2139 and 2140). It adopted the following concluding observations at its 2153rd and 2154th meetings (CCPR/C/SR. 2153 and 2154), held on 30 October 2003.

A. Introduction

2. The Committee notes the submission of the consolidated second and third periodic reports of the Philippines, which contain detailed information on domestic legislation in the area of civil and political rights, and the opportunity to resume the dialogue with the State party after an interval of more than 14 years. The Committee considers that the failure to submit a report for such a long period constitutes a failure to observe its obligation under article 40 of the Covenant.

3. The Committee welcomes the information provided in the report. While appreciating the delegation's comments on a series of questions posed orally by members of the Committee, it regrets that an extensive number of questions remained wholly or partly unanswered at the conclusion of the discussion. Some additional written material received on 24 October 2003 was taken into account by the Committee.

B. Positive aspects

4. The Committee appreciates the progress made by the State party to reform its domestic legal order to comply with its commitments under the Covenant. It welcomes, among other actions, the ratification of the Optional Protocol to the Covenant in August 1989. The Committee considers that the process of reform should be accelerated and strengthened.

5. The Committee notes with satisfaction that the State party has facilitated international assistance in relation to education and training on the protection of human rights.

C. Principal subjects of concern and recommendations

6. The Committee notes the absence of information regarding the status in domestic law of the Covenant and on whether any Covenant provisions have been invoked in court proceedings to date.

The State party should ensure that its legislation gives full effect to the rights recognized in the Covenant and that domestic law is harmonized with the obligations subscribed to under the Covenant.

7. The Committee regrets the lack of information on the procedure for the implementation of the Committee's Views under the Optional Protocol. In particular, it is concerned by the grave breaches by the State party of its obligations constituted by its lack of compliance with the Committee's requests for interim measures of protection in cases submitted under the Optional Protocol (*Piandiong, Morillos and Bulan v. Philippines*).

The State party should establish procedures to implement Views of the Committee and to ensure compliance with requests for interim measures of protection.

8. The Committee is concerned about the lack of appropriate measures to investigate crimes allegedly committed by State security forces and agents, in particular those committed against human rights defenders, journalists and leaders of indigenous peoples, and the lack of measures taken to prosecute and punish the perpetrators. Furthermore, the Committee is concerned at reports of intimidation and threats of retaliation impeding the right to an effective remedy for persons whose rights and freedoms have been violated.

(a) The State party should adopt legislative and other measures to prevent such violations, in keeping with articles 2, 6 and 9 of the Covenant, and ensure effective enforcement of the legislation.

(b) The State party should provide information on the outcome of the proceedings related to the cases of Eden Marcellana and Eddie Gumanoy and the execution of 11 persons on Commonwealth Avenue, Manila, in 1995.

...

11. The Committee expresses concern regarding reported cases of extrajudicial killings, arbitrary detention, harassment, intimidation and abuse, including of detainees, many of whom are women and children, that have neither been investigated nor prosecuted. Such a situation is conducive to perpetration of further violations of human rights and to a culture of impunity.

The State party should adopt and enforce legislative and other measures to prevent such violations, in keeping with articles 6 and 9 of the Covenant and to improve the implementation of relevant laws. The State party should conduct prompt and impartial investigations, and prosecute and punish the perpetrators.

12. The Committee is concerned about the reports of persistent and widespread use of torture and cruel, inhuman or degrading treatment or punishment of detainees by law enforcement officials and the lack of legislation specifically prohibiting torture in accordance with articles 7 and 10 of the Covenant. The Committee notes that evidence is not admissible if it is shown to have been obtained by improper means, but remains concerned that the victim bears the burden of proof in this event.

The State party should institute an effective system of monitoring treatment of all detainees, to ensure that their rights under articles 7 and 10 of the Covenant are fully protected. The State party should ensure that all allegations of torture are effectively and promptly investigated by an independent authority, that those found responsible are prosecuted, and that victims are given adequate compensation. Free access to legal counsel and a doctor should be guaranteed in practice, immediately after arrest and during all stages of detention. All allegations that statements of detainees have been obtained through coercion must lead to an investigation and such statements must never be used as evidence, except as evidence of torture, and the burden of proof, in such cases, should not be borne by the alleged victim.

...

14. The Committee is concerned that the law allowing for warrant-less arrest is open to abuse, in that arrests in practice do not always respect the statutory conditions that the person arrested is actually committing a crime or that the arresting officer has "personal" knowledge of facts indicating that the person arrested committed the crime. The Committee is also concerned that a vaguely worded anti-vagrancy law is used to arrest persons without warrant, especially female prostitutes and street children.

The State party should ensure that its laws and practices with regard to arrest are brought into full conformity with article 9 of the Covenant.

15. The Committee is concerned at continuing reports of displacement of persons and evacuation of populations, including indigenous population groups, in areas of counter-insurgency operations.

The State party should take urgent measures to ensure the protection of civilians in areas affected by military operations, in accordance with its human rights obligations.

...

20. In accordance with rule 70, paragraph 5, of the Committee's rules of procedure, the State party should provide information, within one year, on its response to the Committee's recommendations contained in paragraphs 10, 11 and 14. The Committee requests the State party to provide information in its next report on the other recommendations made and on the implementation of the Covenant as a whole.

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Basil Fernando, Executive Director, Asian Human Rights Commission & Asian Legal Resource Centre, Hong Kong

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- Concluding observations of the UN Human Rights Committee on the Philippines

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