

Report on Extrajudicial Killings and Enforced Disappearances in the Philippines

Fact Finding Mission of Human Rights Now to Philippines

Human Rights Now

April 2008

Summary

In the Philippines, hundreds of social activists and human rights defenders have been unlawfully killed as well as subjected to enforced disappearances since the Arroyo Administration came into power. Human Rights Now (HRN), a Tokyo-based international human rights NGO, conducted an investigation of extrajudicial killings and enforced disappearances in the Philippines on April 14-21, 2007.

The fact-finding mission conducted interviews concerning 15 cases of extrajudicial killings (involving 33 victims) and three cases of forced disappearances (involving 9 victims). Additionally, the team conducted interviews to understand the background to the series of human rights violations.

In most of the cases investigated, the HRN fact-finding team found that the killings, disappearances, and tortures could be attributed to or could most likely be attributed to the military or police forces of the Philippines.

First, among the cases the fact-finding team investigated, in 8 out of 15 cases of extrajudicial killings, the witnesses identified the perpetrators as elements of the AFP or belonging to the CAFGU, the army or paramilitary organization under the control of the army. In two of the three forced disappearance cases, witness and released victims clearly testified about the military's involvement.

Second, all extrajudicial cases have several patterns in common with other cases, such as: (a) the victims are limited to certain groups, (b) victims were condemned by the government or AFP as "enemy of state" or NPA front, (c) victims were publicly exposing the human rights violations allegedly committed by the AFP, (d) victims were harassed, threatened with death, encouraged by the military to stop their leftist activity, or under persistent surveillance. The team detailed its finding in the report.

In terms of the number of killings, we recognize that more evaluation and clarification is necessary to determine the exact number. What is important to note is that a number of extrajudicial killings were indeed committed by state agencies.

HRN has grave concerns about the characteristics of the targeted victims in these killings. In the cases we investigated, the victims include highly respected lawyers, human rights activists, union leaders, a church bishop, a city councilor and left-wing activists. Most of the victims were advocates for the rights of ordinary citizens. Such killings perpetuate fear among the people and have a chilling effect on the society as a whole. It undermines freedom of expression, and ultimately, democracy in society.

HRN also has grave concerns that despite the facts stated above, perpetrators within the government have not been brought to justice and human rights violators are enjoying

impunity. The fact-finding team found that it is extremely uncommon for the perpetrators of extrajudicial killing and abduction to be arrested or face trial.

In the 15 killing extrajudicial cases we have investigated, only one case has been prosecuted, no case gained conviction, and the alleged perpetrators are still in active duty in the military. HRN found systematic failure of investigations of the extrajudicial killings cases by the police, and PNP Task Force continuously disregards the accounts of victims' families. Although the judiciary established new procedure to address the enforced disappearances, such as writ of *amparo* and writ of habeas data, many victims of disappearances are still missing with little cooperation of the military.

The impunity has brought about future human rights violations. For instance, the mission found that a military personnel who allegedly perpetrated extrajudicial killing of human rights activists in 2003, is also the perpetrator of rape and torture of the abducted student.

As a State party to the ICCPR, the State of the Philippines has a legal duty to ensure the right to life. In the case of extrajudicial killings and enforced disappearances, the government has obligation to investigate thoroughly, identify the responsible persons, not only the actual perpetrators, but also identifying the chain of command, as well as ensuring reparation for the victims. HRN urges the Philippines government to conduct thorough investigation of the human rights violation and fight against impunity to restore rule of law and to prevent recurrences.

The fact-finding team underscores that the root cause of the extrajudicial killing and enforced disappearances in the Philippines is the national counter- insurgency policy which does not differentiate between the NPA, armed rebels, and legal organizations and activists. HRN obtains the Oplan Bantay Laya, a document of the military's counter-insurgency strategy, and found that it stated "neutralization of the target". Legitimate civil society organizations, such as human rights group, farmers' organization, labor organization, religious organization and leftist organization are labeled as "enemy of state" "NPA front" Accordingly, they are targeted for elimination in the course of counter-insurgency operation. Extrajudicial killing is a highly probable measure of such elimination. In order to protect the fundamental human rights of civilian in the country, the Arroyo administration must put an end of the counter insurgency policy which links legal organization and activists to the insurgents, and target civilian for neutralization.

HRN is aware of the human rights violations by non-state actors in the country. The fact that non-state actors are committing human rights violations does not negate the state's own obligation to protect human rights. At the same time, HRN urge all party of the internal conflicts in the Philippines to adhere of international humanitarian law and refrain from attack and abuse of civilian.

Lastly, HRN would like to call upon the government and CPP/NPA to proceed with peace negotiations and to implement the CARHRIHL (Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law).

International Community, in particular the top donor Japanese government, should play a meaningful role to restore human rights and peace in the Philippines.

CONTENTS

	PAGE
I INTRODUCTION	
6	
.....	
II ACTIVITIES OF THE FACT-FINDING TEAM	6-7
.....	
III BACKGROUND TO THE EXTRAJUDICIAL KILLINGS IN THE PHILIPPINES	
8-13	
.....	
IV OVERVIEW OF THE FINDINGS	13-28
.....	
V INTERVIEW	
28-66	
.....	
VI EXTRAJUDICIAL KILLINGS AND ABDUCTION CONTINUE	66-69
.....	
VII IMPUNITY	
69-81	
.....	
VIII THE POLICY OF NEWTRALIZATION MUST BE STOPPED IMMEDIATELY	
81-84	
.....	
IX PHILIPPINE'S OBLIGATION UNDER INTERNATIONAL LAW	84-88
.....	
X RECOMMENDATION	
88-93	
.....	

I Introduction

Human Rights Now (HRN), a Tokyo-based international human rights NGO, conducted an investigation of extrajudicial killings and enforced disappearances in the Philippines on April 14-21, 2007.

In the Philippines, hundreds of social activists and human rights defenders have been unlawfully killed as well as subjected to enforced disappearances since the Arroyo Administration came into power. The majority of targets are people who are lawfully criticizing governmental policies by means of peaceful measures such as speeches, writing, and mobilizing people, for instance, lawyers, judges, human rights activists, leaders or activists of labor movements, farmers, priests, and activists of leftist parties.

As friends and fellow Asians, Japanese civil society is very concerned about these human rights violations. Human Rights Now shares this concern and decided to conduct a fact-finding mission in the Philippines.

II Activities of the Fact-finding Team

The HRN fact-finding team conducted a thorough investigation of several cases involving alleged victims and relatives of victims of extrajudicial killings and enforced disappearances. The fact-finding mission conducted interviews concerning 15 cases of extrajudicial killings (involving 33 victims) and three cases of forced disappearances (involving 9 victims). Additionally, the team conducted interviews to understand the background to the series of human rights violations. For example, we conducted interviews to learn what countermeasures and preventive measures had been taken in the Philippines.

While we did not have an opportunity to meet senior officials of the Armed Forces of the Philippines (hereinafter AFP) or Task Force USIG (hereinafter TFU), we met with DILG senior personnel, the staff of the Commission of Human Rights, the president and attorneys of the Integrated Bar of the Philippines and several rights groups: PAHRA (Philippines Alliance for Human Rights Advocates); Ecumenical Movement for Justice and Peace; TFDP (Task Force Detainees of the Philippines); Philippine Human Rights Information Center; CODAL (Counsels for the Defense of Liberties); Medical Action Group; Ateneo Human Rights Center and most extensively, KARAPATAN (Alliance for the Advancement of Peoples' Rights).

We also had a chance to exchange information with the Japanese Embassy.
We greatly appreciate the kind cooperation of all sectors involved.

Table 1: The Itinerary of the Fact-finding Mission

Date	Activities
April 14 (Sat)	Arrival at Manila
April 15 (Sun)	Interview with KARAPATAN, Ecumenical Movement for Justice and Peace, Attorney Neri Javier Colmenares (CODAL) ¹
April 16 (Mon)	Interview with victims and witnesses in Quezon Urban poor community visit (Payatas) - interview with a Gabriela member
April 17 (Tue)	Interviews with victims' families and witnesses in Central Luzon - in Hacienda Luisita - visit to Philippine Independent Church in Tarlac
April 18 (Wed)	Interview with victims' families and witnesses in Southern Luzon - visit to the detention facility of abduction victims - interview with victims' families of extrajudicial killings
April 19 (Thu)	Meeting with the Committee on Human Rights Meeting with DILG Undersecretary Melchor Rosales Meeting with Integrated Bar of the Philippines Interview with Grecil Buya's parents
April 20 (Fri)	Meeting at the Ateneo Human Rights Center Meeting at the Japanese Embassy Meeting with PAHRA Dinner with Japanese media
April 21 (Sat)	Press conference Meeting with Beltran under detention in the hospital
April 22 (Sun)	Return to Japan

After the mission, the fact-finding team continued to closely monitor the human rights

¹ Prior to the fact-finding mission, the member of fact-find team had a meeting in Japan with lawyers of CODAL.

situation in the Philippines. HRN kept itself updated on the status of the cases which the team had investigated, as reported by the various human rights groups in the Philippines. HRN also conducted discussions with the Philippine Embassy in Japan on two occasions. Furthermore, HRN analyzed media reports, as well as reports issued by the governmental organs and the judicial branch of the Philippines.²

III Background to the Extrajudicial Killings in the Philippines

1. Overview

In the Philippines, many lawyers, human rights advocates and left-leaning activists have been killed since the Arroyo Administration came to power in 2001. The series of killings can be considered as extrajudicial killings because of the pattern of victimization and impunity: victims were recognized or labeled as leftists and the perpetrators have not been prosecuted or punished³.

The targets of such killings include people who are lawfully criticizing the government policy with peaceful measures such as speeches and writings. The victims have included lawyers, judges, human rights activists, journalists, doctors, leaders or activists of labor movements, farmers, priests, and activists of leftist parties.

It has been pointed out that the counterinsurgency operation in the Arroyo regime is behind the extrajudicial killings. In the 1990s, the Philippine government engaged in peace negotiations with the National Democratic Front (NDF). However, after the September 11 terrorist attacks in the United States, the Philippine government changed the policy.

The government recognized the CPP-NDF as “terrorists” and launched a counterinsurgency operation- the so-called “Oplan Bantay Laya (OBL, Operation Plan Freedom Watch)”- in January 2002. After the operation was launched, the situation of extrajudicial killings in the country became more serious. This fact may show who is responsible for the series of extrajudicial killings: our recent investigation have revealed that government agencies, such as the military and police, are involved in the killings.

The historical background to the HRN fact-finding mission is outlined in the following sections.

2. Political Situation

(1) Internal Conflict

² Besides these efforts, HRN sent inquiries in July 2007 to various governmental organs as well as the judicial branch of the Philippines asking a series of specific questions regarding each organs’ activities on the extrajudicial killings issue. We have not yet received any answer to these inquiries.

³ In the Philippines, the civil war between the government and New People’s Army (NPA) continues and there is a problem of human rights violation by non-state actors such as NPA. The HRN fact-finding mission team conducted investigation focusing on the responsibility of the state which is primarily responsible for the guarantee of respect for human rights under several human rights treaties. However, HRN is going to criticise abuses of international human rights law and humanitarian law by any non-state actors as well.

Since the independence from the United States occupation, there have been conflicts between the Philippine government and rebels. Despite several peace agreements and negotiations, the peace process is often suspended. The main actors of the conflicts are the Philippine government and communist organizations, primarily the Communist Party of the Philippines (hereinafter CPP), its military sector, the New People's Army (NPA), and their uniting organization, National Democratic Front (NDF).⁴ The Armed Forces of the Philippines (AFP) has continued counter-insurgency operations towards the CPP-NPA-NDF.

Meanwhile, Muslim secessionist groups⁵ also engaged in armed conflict with the government. Although ceasefire agreements have been concluded with the government in the 1990s and early 2000s, these have not yet been fully implemented.⁶

(2) Failure of peace process

The Philippine government has failed to reconcile with the CPP-NPA-NDF despite a number of negotiations and peace agreements in the 1980s and the 1990s. President Aquino made a temporary peace agreement with the NDF in 1986, however the peace negotiation broke down in 1987.

During the 1990s the CPP-NPA, was represented by the National Democratic Front (NDF) in peace negotiations. Under the Ramos Administration, the peace process made an important step forward: the CPP was legalized and an agreement was concluded between the government and NDF. In 1998, the parties entered into the "Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law"(CARHRIHL)⁷, which affirmed to apply the basic principles of international human rights law and international humanitarian law. Though CARHRIHL was not a cease-fire agreement, it was expected to promote the peace process through decreasing numbers of human rights abuses.⁸

(3) The Arroyo Administration

Gloria Macapagal-Arroyo launched her presidency in 2001. In Oslo in April 2001, the Arroyo Administration once resumed the peace negotiations with the NDF.⁹ However, in the wake of 9/11 and the launch of the US-led "global war on terror", the CPP-NPA was

⁴ The abbreviations used in this report are as follows: Armed Forces of the Philippines (AFP), Philippines National Police (PNP), New People's Army (NPA), National Democratic Front (NDF), the Communist Party of the Philippines (CPP).

⁵ Those groups include the Moro National Liberation Front (MNLF) and the Moro Islamic Liberation Front (MILF), which separated from the MNLF in the 1980s.

⁶ The government reached a peace agreement with the MNLF in 1996 and a tentative agreement on a cease-fire with the MILF in 2003. On the other hand, the government has not yet reached agreements with some other Muslim groups in the Philippines such as the Abu Sayyaf Group. The Abu Sayyaf Group has been a target of a clean-up operation by the government since 2002.

⁷ Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law between the Government of the Republic of the Philippines and the National Democratic Front of the Philippines

⁸ Amnesty International Report, p.7 (2006).

⁹ BBC News, 27 April 2001

listed as a terrorist organization by the USA and the EU in 2002. This served to be a major political impediment to negotiations and there have since been calls to remove the organization from the list. Meanwhile, the assassinations of a number of local electoral candidates by the NPA have been reported in 2001 and the series of unresolved political killings of members of legal leftist parties by unidentified armed men has increased.

In January 2002, one year after the Arroyo Administration came to power, the government launched a counter-insurgency operation against rebels —“Oplan Bantay Laya” (OBL, Operation Plan Freedom Watch)¹⁰— a five-year plan setting forth the holistic counter-insurgency strategies toward the CPP-NPA-NDF to be employed by the Armed Forces of the Philippines (AFP).

Despite some progress, such as the establishment of the Joint Monitoring Committee (JMC) which was agreed to by both parties in 2004, the parties have held no further negotiations; therefore, the JMC has virtually lost its function. The momentum for peace negotiations has thus declined.

In June 2006, President Arroyo declared an “all-out war” to eliminate the communist insurgency, particularly the CPP-NPA within two years. According to a presidential spokesman, the government would finally win the fight against the CPP-NPA by means of law and pro-poor programs. The government also budgeted one billion pesos to purchase war equipment and materials.¹¹ In 2007, OBL has been replaced by the new strategy called OBL II, which is basically involves the same strategy as the first OBL.

(4) Recent Policies against leftists and “terrorists”

In 24 February 2006, President Arroyo declared a state of emergency by virtue of Proclamation No. 1017, stating that a coup plot was planned by the communist movement and top-ranking military officials. The declaration banned rallies and closed some media organizations. Six representatives from left-leaning parties were arrested or prosecuted. Representative Crispin Beltran of the party-list organization, the Anakpawis was arrested on 25 February.¹² Fifteen people including leftist congressmen, junior-grade officers of the army and major leaders of CPP were prosecuted on charge with insurgency¹³ on 27 February. They were suspected of conspiring with top rank officials of the NPA and the CPP¹⁴. Rebellion charges against six congressmen including Mr. Beltran were dismissed by

¹⁰ OBL is mentioned in the following chapter 2.

¹¹ *Palace allays fear of authoritarian rule*, Office of the President (June 19 2006)

¹² He was charged with inciting to rebellion in October 1985 under the Marcos regime.

¹³ Under Philippine law, an arrest warrant is not required in the case of insurgency.

¹⁴ The members of Congress were Crispin Beltran (Bayan Muna), Satur Ocampo (Bayan Muna), Teodoro Casiño (Bayan Muna), Liza Maza (Gabriela), and Rafael Mariano (Anakpawis). They were elected through the party list system. These arrests were criticised as a violation of parliamentary immunity because they were made while the Congress was in session. The Congress adopted a resolution providing protection to the five congressmen who were instead made to appear before the prosecution within the

the Supreme Court in June 2007. Though the state of emergency was called off on 3 March 2006, this incident provoked public criticism against the government.

In March 2007, the Human Security Act of 2007 (An Act to Secure the State and Protect Our People from Terrorism¹⁵) was enacted. This Act provides for tougher sentences for terror crimes as well as facilitating the seizure and sequestration of property belonging to terror suspects¹⁶, the interception and recording of communication between members of terrorist organizations or individuals suspected of the crime of terrorism¹⁷, detention for three days without arrest warrant¹⁸, and the establishment of the An Anti-Terrorism Council, which implements the government policy on terrorism¹⁹.

This law has been criticized by an independent UN expert, Mr. Martin Scheinin²⁰. He has called on the Philippines to amend or repeal the Human Security Act because the Act's definition of "terrorism" is too broad; it provides for the disproportionately strict penalty of 40 years imprisonment, and also restriction on travel including house arrest²¹.

3. Situation of Extrajudicial Killings

(1) Extrajudicial killings have increased under such situation. According to Amnesty International, the number of victims was increasing: there were 66 cases of extrajudicial killings in 2005 and the number of victims reached 51²² in the first six months of 2006. KARAPATAN, a local human rights organization, reported more than 800 extrajudicial killings since Arroyo took office in 2001²³. The lack of any government policies to stop the killings and investigate unsolved cases has provoked international criticisms. In response to the sharp criticisms from within the country as well as from the international community, President Arroyo publicly criticized extrajudicial killings in the state of the nation address in July 2006 and ordered that these incidents be investigated.

Subsequently, Interior and Local Government Secretary Ronaldo Puno ordered the creation of a national level Task Force, named Task Force USIG (TFU) to investigate the killings of "party list /militant group members, media men and other high-risk personalities"

premises of the Congressional building. Due to the resolution, the congressmen stayed in the assembly hall until May.

¹⁵ REPUBLIC ACT NO. 9372. This act shall be suspended one month before and two months after the date of any election.

¹⁶ Section 39 of the Human Security Act of 2007.

¹⁷ Section 9 of the Human Security Act of 2007.

¹⁸ Section 18 of the Human Security Act of 2007.

¹⁹ Section 53 of the Human Security Act of 2007.

²⁰ Martin Scheinin, the UN Human Rights Council's Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.

²¹ UN Rights Expert Calls on Philippines to Amend or Repeal Anti-Terrorism Law, UN News, (March 13, 2007)

²² Amnesty International "PHILIPPINES Political Killings, Human Rights and the Peace Process" (August 15, 2006) p.5.

²³ Inquirer, *CHR team clears Palparan in Cetral Luzon political slays*, (March 20, 2007).

for the past five years.²⁴ The President also established a commission named “Independent Commission to Address Media and Activist Killings” (being headed by former Supreme Court justice Jose Melo, this commission is called “Melo Commission”) to investigate extrajudicial killings.²⁵

The Melo Commission submitted its report to the government on 27 January 2007.²⁶ However, the government refused to release it. President Arroyo said the report was “incomplete”²⁷ because of insufficient evidence and ordered the Commission to continue the investigation. She asked European Union countries²⁸ for cooperation with the Melo Commission for investigation.²⁹ The EU said they would not help the commission without receiving a copy of the report.³⁰

In February 2007, Professor Philip Alston, the Special Rapporteur of the United Nations Human Rights Council on extrajudicial, summary or arbitrary executions visited the Philippines and conducted investigations of extrajudicial killings in the Philippines.

On 22 February 2007, he stated in his press statement that “Some killings may have been attributed to the AFP.” “There is little doubt that such killing has been committed”.³¹ He also urged the government to release the Melo report.³²

On the same day, the Melo Commission report was released to media, which concluded in its report that “there is some circumstantial evidence to support the proposition that some elements within or connected to the military are responsible for the killings”^{33 34}

In response to Mr. Alston’s statement regarding military involvement in the extrajudicial killings, President Gloria Macapagal-Arroyo said that the cases “would be resolved and the Armed Forces of the Philippines (AFP) would continue to protect the people.”³⁵

²⁴ Task Force USIG website.

²⁵ Administrative Order No. 157; The members of the Committee were ex-Supreme Court Justice Melo (chairman), Juan de Dios Pueblos (Bishop of Butuan City), Nestor Mantaring (Director of the National Bureau of Investigation), Jovencito Zuño (Chief State Prosecutor), Nelia Teodoro-Gonzales (civic leader and Regent of University of the Philippines). available at <http://www.inquirer.net/verbatim/Meloreport.pdf>.

²⁶ “Melo panel member gives initial report”; The Manila Times Internet Edition (January 28, 2007) available at <http://www.manilatimes.net/national/2007/jan/28/yehey/metro/20070128met2.html>.

²⁷ “Arroyo orders Melo report released”; Inquirer.Net (17 February 2007), available at http://newsinfo.inquirer.net/inquirerheadlines/nation/view_article.php?article_id=49941.

²⁸ Those countries include the United Kingdom, Italy, Germany, Finland, Sweden, Holland, and Spain.

²⁹ “EU rep asks govt for Melo report”; The Manila Times Internet Edition (14 February 2007).

³⁰ *Ibid.*

³¹ Alston’s press statement in Manila, 21 February 2007; He further stated that “The AFP needs to give us precise details and to indicate what investigations and prosecution have been undertaken in response.”

³² See, press release by Mr. Alston and *Palace to release Melo report; dismayed by UN team findings*, The Manila Times Internet Edition (22 February 2007) available at http://www.manilatimes.net/national/2007/feb/22/yehey/top_stories/20070222top2.html.

³³ Independent Commission to Address Media and Activist Killings Created under Administrative Order No. 157 (s.2006), available at <http://www.inquirer.net/verbatim/Meloreport.pdf>.

³⁴ Melo report, 53p

³⁵ Office of the President Website, PGMA vows resolution of extrajudicial killings; AFP to continue as

Subsequently, President Arroyo ordered several measures to address this human rights violation. Meanwhile, the Supreme Court declared the establishment of special tribunals for extrajudicial killings³⁶.

According to the UN Special Rapporteur Mr. Alston, the Philippine government has ordered a range of measures to respond to the problem including as follows.³⁷

- The Department of National Defense (DND) and the Armed Forces of the Philippines (AFP) have been requested to draft an updated document on Command Responsibility;
- The Department of Justice (DOJ), DND, and the Commission on Human Rights (CHR) have been asked to constitute a Joint Fact-finding body in relation to the alleged involvement of military personnel in the killings, and to charge and prosecute those responsible;
- The DOJ has been asked to broaden and enhance the Witness Protection Program (WPP);
- The Chief Justice of the Supreme Court has announced the creation of 99 Special Courts to try those accused of killings of a political or ideological nature;
- The Department of Foreign Affairs (DFA) has formally requested assistance from the European Union and others to provide funds to support government responses to the killings;
- An additional 25 million pesos (US\$ 510,000) has been provided to the CHR to enable it to better address the problem; and
- The Presidential Human Rights Committee (distinct from the CHR) has been reactivated.

However, even after that the announcement of the above measures, the human rights situation has not been ameliorated. This will be discussed later.

IV Overview of the Findings

The fact-finding team of HRN conducted interviews concerning 15 cases of extrajudicial killings (involving 33 victims) and 3 cases of forced disappearances (involving 9 victims).

Table 2

Case No	Name	Character of the victims	Killed/ Abducted
Case 1:	Eden Marcellana and Eddie Gumanoy	Human Rights Defender	Killed
Case 2:	Benjaline Hernandez and other 3 people	Human Rights Defender	Killed
Case 3:	Juvy Magsino and Leima Fortu	Human Rights Defender	Killed
Case 4	Jesus Lasa and other 12 people	Worker	Killed

vanguard for freedom (22 February 2007)

³⁶ Jay B. Rempillo, *SC to Create Special Courts on extrajudicial Killings* (15 February 2007), the website of the Supreme Court of the Philippines, available at; <http://www.supremecourt.gov.ph/>.

³⁷ "Preliminary note on the visit of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, to the Philippines" (12-21 February 2007), UN Doc. A/HRC/4/20/Add.3, (March 22, 2007) Available at <http://daccessdds.un.org/doc/UNDOC/GEN/G07/120/95/PDF/G0712095.pdf?OpenElement>

Case 5:	Juancho Sanchez	Supporter of a strike	Killed
Case 6:	Richardo Ramos	Village Leader	Killed
Case 7:	Abelardo Ladera	City Council	Killed
Case 8:	Isaias Sta Rosa	Religious leader	Killed
Case 9:	Alberto Ramento	Religious leader	Killed
Case 10:	Felipe Lapa	Left Activist	Killed
Case 11:	Expedito Albarillo and Manuela Albarillo	Village Leader	Killed
Case 12:	Romeo Malabanan	Civil Servant	Killed
Case 13:	Jesus “Butch” Servida	Worker’s leader	Killed
Case 14:	Diosdado Fortuna	President of a Labor Union	Killed
Case 15:	Grecil Buya	9 years old girl	Killed
Case 16:	Sherlyn Cadapan, Karen Empeño and other 1 person	Students	Abducted
Cases17:	Ronald Intal	Worker	Abducted
Case 18 :	Axel Pinpin, Aristedes Sarmiento, Enrico Ybanez, Michael Masayez and Riel Custodio(so called Tagaytay 5)	Farmer and Farmer activists	Abducted

1. The Evidence and Systematic Pattern Suggest the Involvement of Government Agencies

In most of the cases investigated, the HRN fact-finding team found that the killings, disappearances, and tortures could be attributed to or could most likely be attributed to the military or police forces of the Philippines. Details of each case will be provided later. Here, we will point out notable characteristics of our findings.

(1) The Identity of perpetrators

Eyewitness Accounts:

In the majority of cases, witnesses comprising family members and/or neighbors were present during the victim’s Killing or abduction and identify perpetrators as belonging to the military.

Among the cases the fact-finding team investigated, in 8 out of 15 cases of extrajudicial killings, the witnesses identified the perpetrators as elements of the AFP or belonging to the CAFGU, the army or paramilitary organization under the control of the army.

The witnesses and relatives told the fact-finding mission the following:

- Case 1 – Eden Marcellana

- The perpetrator of her Killing was identified as Master Sergeant Donald Caigas of the 204th Infantry Brigade, 2nd Infantry Division in Mindoro.
- Case 2 – Benjaline Hernandez
 - The sole survivor of the killing saw the perpetrators wearing military fatigues and bonnets.
 - The perpetrators were identified as Sergeant Antonio Torella of the 7th Battalion (Airborne), the AFP and CAFGU members. Sergeant Torreila and two CAFGU members were indicted and the trial is currently ongoing.
- Cases 4 and 5 – Jesus Lasa and Juancho Sanchez
 - They were killed in the course of the Hacienda Luisita Massacre.
 - On the day of massacre, the PNP and AFP troops were deployed by the order of the Labour Secretary in front of the picket line and tried to disperse the picket line.
 - Thousands of striking workers in Hacienda Luisita witnessed that the PNP and AFP troops who were surrounding the strikers and using tear gas to disperse the strikers. They then, started firing, killing seven strikers, and injuring many other strikers.
- Case 6 – Ricardo Ramos
 - Two eye-witnesses identified Sergeant Joshua Dela Cruz and Romeo Castillo of the 48th Infantry Battalion, the 7th Infantry Division as the perpetrator.
- Case 8 – Isaias Sta Rosa
 - The victim's family (wife, children and siblings) were present when armed men dressed in military fatigue uniforms forcibly took the victim away.
 - Right after the abduction, the family heard a gunshot. When the family found the victim's dead body, one of the abductors – Lordger Pastrana of the Military Intelligence Battalion of the 9th Infantry Division was found dead besides the victim's body. The family found military identification and a military mission order on the body.
- Case 10 – Felipe Lapa
 - Lapa's son and wife identified two CAFGU members led by the 204th Infantry Brigade, 2nd Infantry Division as the perpetrators.
- Case 11– Expedito/ Manuela Albarillo
 - The Abarillos' nine year old daughter witnessed men in military uniforms take her parents from their home just prior to their fatal shooting.
 - Neighbors and other family members witnessed the crime.
 - Lieutenant. Dimapinto and another soldier of 16th Infantry Battalion, in Mindoro were identified as the perpetrators by a nephew of the victims.
- Case 16 – Sherlyn Cadapan

- Witnesses observed the victims as they were taken away in a military jeep with the license plate number RTF 597. A witness identified elements of the 56th Infantry Battalion under the 7th Infantry Division as the perpetrators. Human rights investigators then observed the same jeep in front of a military camp during their investigation of the victims' abduction.
- Case 18 – TAGAYTAY 5
 - Released victims told the fact-finding mission that they were abducted by armed men and tortured by the PNP inside and in areas around a military camp.

The case of Ms. Eden Marcellana is a clear example. Ms. Marcellana was a regional secretary general of a human rights group KARAPTAN (Alliance for the Advancement of Peoples' Rights). She was killed when she was conducting a human rights fact-finding mission in Eastern Mindoro on 21 April, 2003. A military official was identified as a perpetrator by six witnesses who were members of the fact-finding mission.

Another example is the Hacienda Luisita Massacre which took place on 16 November 2004. Many witnesses in the Hacienda Luisita, Central Luzon area testified before the HRN fact-finding team that armed soldiers of the AFP and the Philippine National Police (hereafter PNP) were the ones who shot dead seven victims as well as leaving many others injured.

The military's involvement also seems clear in several enforced disappearance cases. The abduction case of two students from the University of the Philippines is one example³⁸.

On 26 June 2006, Ms. Sherlyn Cadapan and Ms. Karen Empeño were abducted from the house they were staying at in Bulacan, central Luzon. They have been missing since then. The fact-finding team interviewed the mother of Ms. Sherlyn Cadapan as well as a witness who saw the crime scene. The witness clearly stated that he had identified the perpetrator as a military official belonging to the 56th Infantry Battalion.³⁹ The fact-finding team found the testimony to be quite credible.⁴⁰

Acknowledgement of the AFP

In two cases, the AFP acknowledged that the elements of the AFP killed the victims and justified the killing as "legitimate encounter between the AFP and the NPA". In these cases, the victims were publicly tagged as being NPA members.

- Case 2 – Benjaline Hernandez

³⁸ [Asian Human Rights Commission's urgent appeals took t his case.](http://www.ahrchk.net/ua/mainfile.php/2006/1867/)
See <http://www.ahrchk.net/ua/mainfile.php/2006/1867/>

³⁹ It is based on an interview with a witness conducted by the fact-finding team on 16 April. Major General Palparan was 7th Infantry Division from September 2005 to September 2006. The Melo Commission investigated his involvement with the case.

⁴⁰ The witness cannot expose his/her name because of the fear of retaliation. The witness is living at a shelter for his/her safety. He/she had to leave his/her home. Eye witnesses of crime scenes are actually at risk of the killing.

- After the killing, the AFP and the governor of North Cotabato held a press conference where they claimed the incident was a legitimate encounter between the military and the rebel group, New People's Army (NPA). The group of Benjaline was accused of being NPA members and this accusation was used as an excuse for the killing. The perpetrators in the military were later indicted.
- Case 15 – Grecil Buya
 - The military admitted killing of the victim, however, they claim the killing was justified because they accused her of being a member of communist rebels.
 - According to the victim's family, one soldier admitted that one of the soldiers with him shot the victim to the victim's brother.
 - The Commission on Human Rights denied military's above allegation. Later the military changed its allegation to that the "NPA is the one who killed the victim."

The case of Grecil Buya is clear example of the military killing a nine-year-old girl and then accusing her of being a communist rebel. The Commission on Human Rights (Philippines) has refuted the government's allegation that Grecil was an NPA member. In the case of Benjaline, the elements of AFP have been prosecuted and are facing criminal trial.

(2) Profile of Victims:

Most of the victims of the extrajudicial killings appear to belong to certain groups, all of which have one common characteristic: their involvement in activities that seem to go against the interests of the Arroyo regime. They are human rights defenders investigating and condemning human rights violations allegedly committed by state agencies, students involved in human rights issues, union leaders, members of the political party-list group Bayan Muna, religious leaders who promote human rights, and in some instances, innocent bystanders that are later accused of being anti-government agents or members of the NPA.

1) Human Rights Group

The following victims that the HRN fact-finding team investigated were members/leaders of the human rights group KARAPATAN (Alliance for the Advancement of Peoples' Rights), which vocally condemns human rights violations committed by the military.

- Case 1 : Eden Marcellana
- Case 2 : Benjaline Hernandez
- Case 3 : Leima Fortu
- Case 7: Alberto Ramento

Notably, Eden and Benjaline were killed in the course of their research of human rights violations allegedly committed by the military. They all were vocally criticizing the human

rights violations committed by the AFP including increasing extrajudicial killings.

Additionally, we would like to highlight the killing of Juvy Magsino (Case 3), a well-known human rights lawyer who was actively working against human rights violations and the mobilization of the AFP.

2) Political Group -Bayan Muna:

The fact-finding team found that the victims of extrajudicial killing include lots of member of Bayan Muna. Bayan Muna is a legitimate political party registered with the party-list system, which is an election system providing the seats in the House of Representatives in proportional representation. There are currently three Bayan Muna representatives sitting in the 13th Congress of the Philippines: Satur Ocampo, Teodoro Casiño, and Joel Virador. However, according to the Melo Commission report, former General Palparan of the AFP as well as PNP Deputy Director General Avelino Razon were of the same view that “KARAPATAN and BAYAN MUNA are ‘fronts’ of the NPA” and “unless we stop fooling ourselves that they are not fronts, we will not be able to solve the insurgency problem.”⁴¹

Among those killed who also belonged to Bayan Muna were:

- Case 3: Juvy Magsino,
Active member of Bayan Muna and candidate for town Mayor in Mindoro Province
- Case 7: Abelardo Ladera,
Leader of Bayan Muna in Tarlac
- Case 11: Felipe Lapa,
Bayan Muna Coordinator of District Three of Laguna Province
- Case 12: Espedito Albarillo,
Secretary General of Bayan Muna Southern Tagalog;
Manuela Albarillo,
Active member of Bayan Muna
- Case 13: Romeo Malabanan,
Secretary General of the Laguna Chapter of Bayan Muna.

3) Union Leaders and Activists

The next largest group of victims comprises union leaders and activists that were engaged in prolonged strikes against management. Examples of this can be seen in the following cases.

- Union leaders and workers of Hacienda Luisita
Cases 4 and 5: Jesus Lasa, Juancho Sanchez, and other 5 workers

⁴¹ Melo report page 8

The victims were shot and killed when military and police fired into the crowd in the picket line (“Hacienda Luisita Massacre”).

Case 8: Ricardo Ramos

The victim was the president of one of the two labor unions that participated in the Hacienda Luisita labor strike.

- Union leader of EMI-YAZAKI

Case 13: Jesus “Buth” Servida

The victim was the external organizer of new labor union. There was also an attempt to assassinate the former president of the union.

- Union leader of Nestle

Case 18: Diosdado Fortuna

- The victim was the Chairman of the Nestle Labor Union. His union was involved in a prolonged labor dispute with Nestle.

4) Persons who were labeled as “NPA” , “NPA front” or “ Enemies of the State”

Astonishingly, majority of victims were tagged as members of the New People’s Army (hereinafter NPA) or “enemies of the state” before or after killings or disappearances.

Such labeled persons include elected members of the city council, village leaders, lawyers, and leaders of human rights organizations. Based on gathered information, the HRN fact-finding mission observes it is hardly believable that such victims are NPA or enemies of the state.

- Accusation of being NPA

Several victims are tagged as “NPA” before or after the killing.

- Case 1: Eden Marcellana

The victim’s husband told *“Palparan mentioned in the past that KARAPATAN was a front of the NPA and these activists are considered enemies. Palparan’s group was going around the community and holding meetings were they would say Eden was a member of the NPA”*

- Case2 Benjaline Hernandez

After the killing, the military declared that the killing was a legitimate encounter with NPA.

- Case 3 Juvy Magsino

Prior to her death, Magisno reported to her mother that a Sergeant of the 204th Brigade of the AFP accused her of being a member of the NPA.

- Cases 4 and 5: Hacienda Luisita Massacre

After the killing, the military published a report named “Trinity of War” which alleged that the NPA was instigating the Hacienda Luisita strike, and the massacre was committed by the NPA instead of the AFP.

- Case 7: Abelardo Ladera

- Prior to his death, the military distributed a Comic styled propaganda material naming the victim as a member of NPA.

- Case 12: Mr. and Mrs. Albarillo

According to the Melo Commission report, police report of the case refers to Mrs. Albarillo as a *“lie-low member of the CPP/NPA”* and Mr. Albarillo was *“supposedly linked to the assassination of Mayor Oscar Aldaba of San Teodoro.”*⁴²

Before the killing, Mrs. Albarillo asked for mercy by saying “we are not NPA”; however, their please were in vain.

- Case 16: Grecil Buya,

After the killing, the AFP accused the victim as an “NPA child soldier” as an excuse for the killing.

- Case 18 TAGAYTAY 5

Five men were suspected to be members of the NPA and abducted.

They were tortured physically and mentally to obtain information on their alleged NPA activities. Although the PNP denied that the five men were in their custody, five days after the abduction, the victims suddenly appeared before a district court on a charge of rebellion.

- Listing in “Knowing the Enemies”

The HRN fact-finding team obtained a power point presentation titled “Knowing the Enemies”. The commander of the AFP, General Hermogenes Esperon, in his testimony before the Melo Commission, admitted the existence of the power point presentation “Knowing the Enemy” and stated that it was made by the army.⁴³

In this power point presentation, several legal groups were designated as “enemy organizations”. The fact-finding team found that most victims it investigated were members of organizations mentioned in “Knowing the Enemies.”

The Bayan Muna party and KARAPATAN are listed in “Knowing the Enemies” as enemy organizations. The victims who were members of those organizations have already been described above. Other organizations and victims include the following:

- “Labor Unrest at Hacienda Luisita Incorporated” including CATLU and ULWU.
Ricardo Ramos (President of CATLU)

⁴² Melo report

⁴³ Melo report

Jesus Lasa (Active member of ULWU)

In particular, Ricardo Ramos was listed by name in this presentation.

- “Philippines Independent Church” (PIC)
Bishop Ramento (Former Supreme Bishop of PIC)
- “United Church of Christ in the Philippines” (UCCP)
Isaias Sta Rosa (Member)
Juancho Sanchez (Youth Fellowship)
- “College Editor’s Guild of the Philippines” (CEGP)
Benjaline Hernandez (Vice President)
- “Kilusang Mayo Uno” (central organization of labor federations)
Felipe Lapa (Member)
Diosdado Fortuna (Regional Chairperson)

- **Order of Battle**

There are four cases in which the families and colleagues of victims heard that the victims’ names were listed in the “Order of Battle”.⁴⁴ The “Order of Battle” is a list of individuals and organizations which was allegedly made by the AFP. According to the UN special rapporteur Alston’s intermediate report, the term “Order of Battle” is defined in the military as “*an organizational tool used by military intelligence to list and analyze enemy military units*”.⁴⁵

Case 7: Mr. Ricardo Ramos

Case 8: Mr. Abelardo Ladera

Case 11: Mr. and Mrs Albarillo

Case 14: Mr. Diosdado Fortuna

Notably, Ladera was elected as a city councilor of Tarlac by the second largest vote, while Mr. Ramos and Mr. Albarillo were the chairpersons of their respective Barangays, the

⁴⁴ The Order of Battle is a list of individuals and organizations allegedly made by the AFP. The intermediate report for the United Nations Commission on Human Rights submitted by Alston stated that “Order of Battle” is adopted “systematically by the Armed Forces of the Philippines (AFP), and in practice often by the Philippines National Police (PNP). In military terms an order of battle is defined as ‘an organizational tool used by military intelligence to list and analyze enemy military units’. “The AFP adopts an order of battle in relation to the various regions and sub-regions in which they operate. A copy of a leaked document of this type, from 2006, was provided to me and I am aware of no reason to doubt its authenticity. The document, co-signed by senior military and police officials, calls upon “all members of the intelligence community in the [relevant] (*Alston’s addition*) region ... to adopt and be guided by this update to enhance a more comprehensive and concerted effort against the CPP/NPA/NDF (Communist Party of the Philippines/ New People’s Army/ National Democratic Front). The document, some 110 pages in length, lists hundreds of groups and individuals who have been classified, on the basis of intelligence, as members of organizations which the military deems “illegitimate”. “Newspapers carry almost daily reports of senior military officials urging that such groups be neutralized. Senior military officials also call upon the populace to recognize that to support their candidates in the upcoming elections would be to support the enemy.” UN Doc. A/HRC/4/20/Add.3, para. 9.

⁴⁵ Ibid

smallest local government units in the Philippines. Mr. Ramos was also elected as one of “the most outstanding village leaders in the Philippines”.

There is no justification for the government to list civilian in the “Order of Battle”. Such practice certainly endangers civilian’s life. In particular, there is no legitimacy for the government to list the people working legally and peacefully such as above four victims in the list.

At the same time, the military’s designations of the majority of the victims or their organizations as “enemies of the state” can hardly be dismissed as just meaningless coincidences. The military’s condemnations against the victims prior to the killing suggest a direct connection between the killings and the military.⁴⁶

(3) Incidents Prior to the Killing

In the following cases, incidents prior to the killing also indicate connections between the killing and military or police.

- Case 3 – Juvy Magsino
 - Prior to Magsino’s death, she told her mother that she was receiving death threats from unknown sources and that the commanding officer of the 204th Brigade, General Palparan once told her “I am watching you.”
- Case 4 –Ricardo Ramos
 - Prior to his death, he found his name in the “Order of Battle” at the regional public meeting organized by military.
 - He got death threat text messages in his cell phone.
 - The day before he was killed, he received a box which contained a flower typically used in funerals, a card signed “RIP (Rest in peace)”, and a cartoon of a coffin. The sender was unknown. This box exploded.
 - On the day of the victim’s Killing, military officers requested to speak to the victim on two separate occasions. Each time, the officers were told the victim was unavailable. Later in the evening of the same day, the victim was shot and killed.
- Case 7 – Abelardo Ladera
 - Prior to his death, the military distributed comic-style propaganda naming the victim as a member of the NPA.
- Case 9 – Alberto Ramento
 - Prior to his death, the victim frequently received death threats in his cell-phone frequently. The threats became more frequent after the issue of “Knowing the

⁴⁶ The policy of neutralization further explains the connection between military and killing of the people who were condemned by the military. It will be discussed later.

Enemy” in which victim’s church, the PIC was designated as an “Enemy of the State”.

- Case 11 – Expedito/ Manuela Albarillo
 - Two weeks prior to the Abarillo’s death, the military frequently visited their home to encourage them to stop campaigning for Bayan Muna.
- Case 13 – Jesus “Buth” Servida
 - According to a former colleague, Mr. Servida was under surveillance prior to his death.
 - Prior to his death, a gunman later identified as a policeman in Security Unit attempted to assassinate the former president of the victim’s labor union near the Yazaki-EMI plant.
- Case 14 – Diosdado Fortuna
 - Prior to his death, Mr. Fortuna reported constant incidents of surveillance and several encounters with police.
 - Prior to his death, another labor organizer in the region was abducted. According to the victim of abduction, the abductors mistook him for Mr. Fortuna.

(4) Method of Killing (Manner of killing, Weapons Used, Location)

In many of the cases, the assailants carried out the killings in a “professional” manner. In the cases investigated by the HRN fact-finding team, victims were often killed by a firearm usually issued to military personnel. An additional indicator that the perpetrators were professionals is the fact that the killings were conducted in broad daylight in front of family members, neighbors and other witnesses.

Weapons Used

Some of the victims were killed with a weapon which is usually used by military, the .45-caliber pistol.

- Case 5 – Isaias Sta.Rosa:
 - The victim’s family stated they were threatened by men in military uniforms carrying .45-caliber pistols.
 - Police investigation recovered a shell from a .45-caliber pistol near the victim’s body.
- Case 20 – Felipe Lapa:
 - The victim was killed by a shot to the head with a .45-caliber gun. The perpetrators were identified as CAFGU members.
- Case 7 – Jesus “Buth” Servida:
 - The victim was killed point blank with .45-caliber gun shots to his face and mouth.
 - The perpetrator has not been identified.

- Case 18 – Diosdado Fortuna:
 - The victim was shot by two armed, unidentified men.
 - Bullets from a .45-caliber pistol entered the victim’s chest and fatally injured his heart, liver and spleen causing his instant death.

Location (Where the killings took place):

The majority of the killings occurred in front of the victim’s home or place of work and in front of several witnesses. In some cases, perpetrators dared to assassinate victims in broad daylight. These acts indicate the assailants had little fear of police or government reaction.

- In many cases, the assailants approached the victims at their homes, ‘escorted’ them several meters away and then shot them.
 - Case 5 : Isaias Sta. Rosa
 - Case 20: Felipe Lapa
 - Case 21: Mr. and Mrs.Abarillo
- In other cases, the victims were killed in public settings such as place of work or in residential areas:
 - Case 2: Juvy Magsino
 - The victims were shot and killed near the military camp.
 - Case 8: Ricardo Ramos
 - The victim was killed while he celebrated the victory of the strike with many villagers.
 - Case 11: Abelardo Ladera
 - The victim was killed while stopping at a local store on his way home. He was killed in front of his driver at about 1pm.
 - Case 19: Romeo Malabanan
 - The victim was shot in front of his home, along a public street in the morning.
 - Case 7: Jesus “Buth” Servida
 - The Victim was shot in front of his place of work (Japanese-owned Yazaki-EMI) in the morning.
 - Case : Diosdado Fortuna
 - The victim was shot in front of the gate of the Japanese-owned plastic company SAGARA around 5:20 pm.

(5) Killings associated with General Palparan

The Melo commission report described that the involvement of Mr. Palparan, a former General of the AFP as follows:

“General Palparan, clearly the man in the center of the maelstrom, admits to having

uttered statements openly encouraging persons to perform extrajudicial killings against those suspected of being communists, albeit unarmed civilians. Worse, he was reported to have 'expressed delight' at the disappearance of at least two persons, mere students, but who were suspected of being communists or activists."⁴⁷

The HRN fact-finding team also finds several killings that we have investigated are attributed to the element of the AFP directed by Mr. Parparan, and most likely attributed to Mr. Parparan.

1) May 2001-April 2003

During this period, Mr. Palparan was the Brigade Commander of the 204th Infantry Brigade, 2nd Infantry Division in Mindoro Province. The following incidents are allegedly related to him or his Brigade.

- Case 1 Edén Marcellana
 - According to the victim's husband, she was considered a top enemy of Gen. Palparan. The victim was preparing a report charging Gen. Palparan with human rights violations. The report was scheduled to be published as then Colonel Palparan was preparing for a promotion in the military hierarchy to the rank of General.
 - Gen. Palparan's direct subordinates held meetings with the local community telling people the victim was a member of the NPA.
 - The evidence shows that an element of the 204th Infantry Brigade under Palparan was the perpetrator of the killing.
- Case 11 Felipe Lapa

A family member of the victim saw the perpetrators who were identified as members of the 204th Infantry Brigade under Palparan.
- Case 12 Expedito Albarillo

Mr. and Mrs. Albarillo were killed by an element of the 16th Battalion which is related to the 204th Infantry Brigade.

2) September 2005-September 2006

During the time, Mr. Palparan was the Commanding General of the 7th Infantry Division in Central Luzon. The following incidents are allegedly related to him or his Brigade.

- Case 6: Ricardo Ramos

The witness pointed out the elements of the 48th Infantry Battalion, 7th Infantry Division under Palparan as the killers.
- Case 16: Sherlyn Cadapan

The witness testified that Sherlyn Cadapan and 2 others were abducted by elements of the 56th Infantry Battalion, the 7th Infantry Division under Palparan.

⁴⁷ Melo report pp. 56, 57.

According to the Melo report, with respect to those disappearances, General Palparan said that “those disappearances are good for us but as to who abducted them we don’t know.”

- Case 10: Bishop Alberto Ramento

Bishop Ramento was stabbed to death in his church in Tarlac, on October 3, 2006 immediate after the retirement of General Palparan.

- Case 17 Ronald Intal

Ronald Intal was forcibly taken by armed men on 3 April, 2006. He was well known by the 7th Infantry Division for his support of the Hacienda Luisita strike.

3) Instigation and Encouragement

The HRN fact-finding mission could not obtain any evidence to prove that Mr. Palparan directed or ordered his subordinates within the AFP to perpetrate the killings. Nevertheless, it is clear that he, at least, instigated and encouraged his subordinates to do so.

The report detailed his pronouncements related to extrajudicial killings. The description in the report suggested that General Palparan verbally encouraged and instigated the extrajudicial killings and enforced disappearances. For example:

“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 killings are being attributed to me but I did not kill them, I just inspire the trigger men.”
“I encourage people victimized by communist rebels to get even.”⁴⁸

Mr. Palparan is therefore responsible for some of the killings, by at least instigating and encouraging the actual perpetrators within the military.

(5) Conclusion

The HRN fact-finding team concludes that there are reasonable grounds to believe that in the many cases, either the AFP or PNP are responsible for the killings.

First, in eight extrajudicial killing cases, the team can identify the witnesses who clearly point out elements of the AFP as the perpetrators. In two cases (including one of the above eight_cases), the AFP admitted at least once that they killed the victims “in the course of legitimate encounters with NPA.” Also in two of the three forced disappearance cases, witness and released victims clearly testified about the military’s involvement.

Second, in another six extrajudicial killings and one abduction case, the fact-finding mission has not identified any witness to point out military personnel as perpetrators, nor has the team identified any acknowledgement by the military. However, the team can recognize that there are systematic patterns to the killings which suggest a connection between the

⁴⁸ Melo report pp.17

killings and elements of governmental agencies.

All extrajudicial cases have several patterns in common with other cases, such as: (a) the victims are limited to certain groups, (b) victims were condemned by the government or AFP as enemies or NPA front, (c) victims were publicly exposing the human rights violations allegedly committed by the AFP, (d) victims were harassed, threatened with death, encouraged by the military to stop their leftist activity, or under persistent surveillance. Also, the weapons used, locations of crime scenes, and patterns of the crimes have certain similarities. In enforced disappearance cases, the characteristic of the cases have many factors in common with the extrajudicial killing cases.

The cases related to the former General Palparan are the clearest examples of military responsibility. Even if he did not directly order the killings, he publicly encouraged the killings. Successive killings have taken place in the areas which his military Brigade or Battalion controlled and there are cases in which witnesses clearly identified elements of his military as the perpetrators.

Considering the Arroyo Administration's All Out War policy as well as the AFP's neutralizing policy toward the leftist, which will be discussed later along with the above findings, the team considers that the governmental agencies, most extensively the AFP, are responsible for most of the above killings.

2. The number and characteristics of the victims.

One of the controversial problems concerns the number of the victims of extrajudicial killings in the Philippines. KARAPATAN, a local human rights organization, reported that more than 800 extrajudicial killings have been committed⁴⁹ since Arroyo came into power in 2001. Another local human rights organization PAHRA has a different number. According to Amnesty International, there were 66 cases of extrajudicial killings in 2005, but the number of cases reached 51 in the first six months of 2006⁵⁰. Moreover, the cases investigated by the Task Force USIG were even more limited in number.

In terms of the number of killings, we recognize that more evaluation and clarification is necessary to determine the exact number. However, the difference in the numbers provided by different organizations cannot be a justification to underestimate or discredit their allegations of victimization. All claims of killings and abductions should be listened to sincerely, and investigated thoroughly by the government. Although KARAPATAN and PHARA reported different numbers of extrajudicial killings, the difference in number can be

⁴⁹See, KARAPATAN, Report on the human rights situation in the Philippines, 2006. The figure was given by KARAPATAN to the fact-finding team at their presentation on 15 April 2007.

⁵⁰ Amnesty International, "Philippines: Political Killings, Human Rights and the Peace Process", 2006, p.5.

attributed to the fact that they are working in different regions and their investigations have not overlapped⁵¹.

What is important to note is that a number of extrajudicial killings were indeed committed by state agencies. It is of grave concern that despite the facts stated above, perpetrators within the government have not been brought to justice and human rights violators are enjoying impunity. Most of the victims' relatives we met with claimed that there had been no justice, accountability, or even serious investigations of the killings of their loved ones.

Also, we have grave concerns about the characteristics of the targeted victims in these killings. In the cases we investigated, the victims include highly respected lawyers, human rights activists, union leaders, a church bishop, a city councilor, a Barangay Captain⁵² and left-wing activists. Most of the victims were advocates for the rights of ordinary citizens. Such killings perpetuate fear among the people and have a chilling effect on the society as a whole. It undermines freedom of expression, and ultimately, democracy in society⁵³.

V Interviews

1. Extrajudicial Killings against Human Rights Workers

Case 1 : Eden Marcellana and Eddie Gumanoy⁵⁴

Background Information:

【Victims】 Eden Marcellana (29 years old, female)

General Secretary of the organization KARAPATAN Southern Tagalog

Eddie Gumanoy (37 years old, male)

Chair of the peasant organization KASAMA-TK

【Incident】 The victims were killed on April 21, 2003 in Bansud, Oriental Mindoro, Southern Tagalog. The incident happened in the course of fact-finding investigations conducted by the victims regarding human rights violations in Mindoro.

【Perpetrators】 Master Sergeant Donald Caigas of the 204th Infantry Brigade in Mindoro and

⁵¹ Statement given at a meeting with organizations including PHARA on 20 April, 2007.

⁵² The Barangay is the smallest administrative and local government unit in the Philippines. The Barangay captain is the elected head of the Barangay and hence a village leader in the Philippines.

⁵³ In the Philippines, civil war continues between the Philippine Government and the NPA and there is a problem of human rights violations by non-state actors such as the NPA. The fact-finding mission in the Philippines focused on state responsibility: namely, that the state is primarily responsible for respect for human rights under international treaties. However, the fact-finding team would criticize violations of international human rights law and humanitarian law by non-state actors. On human rights violations by the NPA, *see*, the report of Amnesty International.

⁵⁴ HRN Interview with Eden Marcellana's husband on April 16, 2007

This case was also reported by Amnesty International, "Philippines, Political killing, Human Rights and the Peace Process" www.reliefweb.int/library/documents/2006/ai-phl-15aug.pdf

the other AFP members were identified as perpetrators by witnesses.

Prior to the Killings

Prior to her killing, Marcellana's activities as General Secretary involved: conducting Fact-finding Missions (FFM), developing documentation, interacting with media organizations and holding dialogues with government agencies and military officers. Marcellana worked in this capacity for approximately five years.

Marcellana's husband told HRN that the military also suspected his wife of being affiliated with the New People's Army.

Marcellana's husband believed she was considered a top enemy of Palparan because of her human rights work.

“Almost all the cases of human rights violations were related to Palparan. Eden was the one who handled these cases, and as a spokesperson, she was vocally condemning the human rights violations. That's why she was suspected as a high-ranking official of the National Democratic Front. She was considered a big fish.”

“Palparan mentioned in the past that KARAPATAN was a front of the NPA and these activists were considered enemies. Palparan's group was going around the community and holding meetings where they would say Eden was a member of the NPA.”

Circumstances of the Killings

From April 19 to 21, 2003, Marcellana and Gumanoy led a fact-finding mission consisting of 11 people to Gloria, Oriental Mindoro to investigate cases of abduction and torture of Barangay Councilors and police as well as the destruction of villagers' homes which were allegedly committed by the 204th Infantry Brigade. While investigating the abduction and torture cases, Marcellana's group learned of another torture case against the Barangay Captain of Tambong. Since the group thought the latter case was urgent, they then decided to conduct a fact-finding mission into this violation as well.

The mission decided to end their work on April 21, 2003 and left for Calapan City. At around 7 pm, the passenger van in which the mission members were riding was stopped and commandeered by armed men. The assailants specifically asked for Eden and forced her to reveal her identity. The van later stopped somewhere in Poblacion 3, Victoria town and the assailants took Eden, Eddie, Virgilio Catoy II, Marlvín Jocson, Francisco Saez, all members of the FFM, as well as Zosimo Cripon, an ordinary passenger who rode the van with members of the fact-finding mission, to a jeepney. They were hogtied and driven for another hour or so until the jeepney stopped. At this point, Eden and Eddie were ordered to step out of the jeepney. Eden and Eddie were found dead with bullet wounds the following day. The remaining passengers are still alive and reported the incident.

The witnesses, four survivors of abduction positively identified one of the perpetrators of

the abduction as Master Sergeant Donald Caigas of the 204th Infantry Brigade in Mindoro.

The husband of Eden believes that Palparan is the mastermind behind the killings. *“Before she was killed, Eden was preparing a case against Palparan because he was due for a promotion. The Commission on Appointments of the Senate was going to hear the case against Palparan, and Eden was in possession of evidence against Palparan.”*

Investigation and Prosecution

This case became high-profile. The President had to form a Task Force in the Department of Justice, thus starting an investigation. Donald Caigas ignored several summons sent to him to appear before the Department of Justice Task Force. In June 5, 2003, DOJ Undersecretary Jose Calida announced that Master Sergeant Donald Caigas was arrested on charges of Killings of Marcellana and Gumanoy.

Based on the testimonies of nine surviving witnesses to the abductions and killings, in May 2003, the Department of Justice(hereinafter, DOJ) Task Force conducted inquiry of the said incident.

At this time, the case brought by governmental agencies has been dismissed twice. The families and supporters of Eden and Eddie are waiting for a ruling in a third trial.

Comment from the Family Member

When asked what he would like to say to the Philippine government and authorities, Mr. Marcellana responded:

*“To have the perpetrators punished, including Palparan; for President Arroyo to order a stop to all killings, and justice for victims.”*⁵⁵

Case 2: Benjaline Hernandez⁵⁶

Background Information:

【Victims】 Benjaline Hernandez (22 years old, female)

Deputy Secretary General of the human rights organization KARAPATAN (Alliance for the Advancement of People's Rights) in Southern Mindanao Region based in Davao.

Third year university student at Ateneo de Davao University and the Vice President for Mindanao of the College Editors Guild of the Philippines (CEGP)

Crisanto Amora(23) Vivian Andrade(18) Labaon Sinunday(30)

⁵⁵ Melo Commission Report, in 27 page, refer Palparan's responsibility on this case

⁵⁶ HRN interview with Hernandez's mother, Evangelene on 4/2007

This case was also documented by, among others, Amnesty International and Manila Times, see below <http://web.amnesty.org/wire/july2002/Philippines>

http://www.manilatimes.net/national/2007/july/19/yehey/top_stories/20070719top8.html

Members of the Arakan Progressive Peasant Organization (APPO)

【Incident】 The victims were killed on April 5, 2002 in Barangay Caridad, Arakan Valley, North Cotabato.

The incident happened in the course of the victims' human rights research.

【Perpetrators】 Master Sergeant Antonio Torella of the AFP and CAFGU members were identified as perpetrators by witnesses

Circumstances of the Killings

On 5 April 2002, Hernandez was in Arakan Valley conducting a follow-up documentation on the fact-finding mission on the Tababa Massacre, an unsolved massacre where three peasants were killed in Arakan Valley in 2001. Hernandez was accompanied by members of the Arakan Progressive Peasant Organization (APPO), namely, Crisanto Amora, Vivian Andrade and Labaon Sinunday.

According to a witness, when Hernandez and her companions stopped for lunch in an abandoned hut, armed men strafed the house with no warning. Some of the men were wearing bonnets, which covered their faces. After hearing the gunfire, the group ran out of the hut. Sinunday was shot and killed first.

Hernandez, Amora and Andrade begged for their lives while explaining to the armed men that they were civilians, and unarmed. However, they were all shot at close range.

A witness, a 16 years old boy, who accompanied the victims was able to survive the incident by jumping out of the hut and hiding in the grass. According to the witness they were shot and killed at the same time by a group of armed men. He suffered psychological trauma having witnessed the killings at such close range.⁵⁷ The boy identified the perpetrators as Sgt. Antonio Torella of the 7th Battalion (Airborne), the AFP and members of the paramilitary group called CAFGU (Citizens Armed Forces Geographical Unit). According to the boy, there were six CAFGU involved, including Leo Ingatan, Edwin Arandilla, Edgar Alojado, and Bernabe Abanilla, who were all led and directed by Sgt Torella.

After the armed men killed Hernandez and company and were leaving the scene, they encountered a group of people from the neighboring village. The armed men told the villagers that they could view dead bodies and to check if they were relatives or acquaintances. Traveling with the villagers were medical mission volunteers with cameras. Together they rushed to the site and took pictures of the dead bodies. Copies of the photos of the dead body of Ms. Hernandez now form part of the evidence.

⁵⁷ For security reasons, HRN cannot disclose the boy's identity

Investigation and Prosecution

Two days after the incident, the AFP and the governor of North Cotabato, Manny Pinol, held a press conference where they claimed the incident was a legitimate encounter between the military and the rebel group, New People's Army (NPA). In this press conference, the victims were accused as being members of the NPA.

The Commission on Human Rights' Region 11 office conducted an investigation of the incident. The Commission's report stated the incident was not an encounter between the military and the NPA and there was no exchange of gunfire. A criminal case was filed in the Department of Justice (DOJ) in 2002.

The case was then forwarded to Kidapawan City Regional Trial Court. Sergeant Antonio Torella of the 7th Battalion (Airborne), the AFP and two other persons who belong to the CAFGU were charged for the killings of the victims. Sergeant Torella and the CAFGU members were jailed, but after six months, were granted bail. When asked if the military removed the alleged perpetrators from their ranks, Hernandez's mother replied: "*The military did not fire Sgt. Torella. He continues to work for the military and receive salaries from the government.*"

While all of the witnesses for the victims have testified, the lawyers for the defendants have filed a motion to dismiss for lack of evidence. In March 2006, Ms. Hernandez's mother filed a case at the UN Human Rights Commission. The mother stated that "*Before the incident, I was an ordinary mother, but since then, for 5 years, I have been fighting for justice.*"

Case 3 : Juvy Magsino and Leima Fortu⁵⁸

Background Information:

【Victims】 Juvy M. Magsino (34 years old, female)

Human Rights Lawyer, Vice Mayor of Naujan, Mindoro Oriental, Philippines

Candidate for Mayor of Naujan, Mindoro Oriental, Philippines⁵⁹

Active Member of Bayan Muna Party⁶⁰

Leima Fortu (27 years old, female)

Acting Secretary-General of KARAPATAN-Mindoro Oriental

Member of Bayan Muna Calapan City

⁵⁸ HRN interviewed Juvy Magsino's mother on April 18, 2007. This case is also reported by the International Fact-finding Mission report released by the Dutch Lawyers for Lawyers Foundation, in July 24, 2006.

⁵⁹ At the time of her death, she was also the Chairperson of Mindoro for Justice and Peace, the Chairperson of the Vice Mayors' League of Mindoro Oriental, Philippines, and Honorary Member of Gabriela. As a human rights lawyer, she was also actively defending victims of mining.

⁶⁰ Bayan Muna (People First) is a national political party composed mainly of workers, farmers, and professionals (http://www.bayanmuna.net/?page_id=2).

Public School Teacher at the Suqui Elementary School, Calapan, Mindoro Oriental⁶¹

【Incident】 The two victims were killed in 13 February 2004 at about 11:00 PM at Barangay Amuguis, Naujan, Mindoro Oriental, Philippines.

Prior to the Killings

As a human rights lawyer, Magsino was involved in lots of cases related to land rights of peasants. Prior to Magsino's Killing, she was running in the mayoral race to be decided on May 11th of the same year. Bayan Muna endorsed her candidacy for mayor. Fortu was acting Secretary-General of KARAPATAN-Mindoro Oriental and district coordinator of Bayan Muna.

Significantly, Mindoro Oriental has been designated as a "priority area" in the government's counter- insurgency campaign, and as such the military has deployed in the area under the operational command of the 204th Brigade of the Philippine Army. Magsino and Fortu were in the forefront in various public campaigns against human rights violations by the military including extrajudicial killings. The two victims were also very prominent in the campaign to end the militarization of the province.

Harassment

Prior to Magsino's death, she told her mother she was receiving death threats from unknown sources and that General Palparan, the commanding officer of the 204th Brigade, once told her (while he was stationed in Mindoro) "we are watching you" referring to her political affiliations. Magsino also reported to her mother that a Sergeant named Larry Geralyo of the 204th Brigade, Second Army Infantry Division accused her of being a member of the NPA.⁶²

Circumstances of the Killings

On 13 February 2004, Ms. Magsino dropped by the house of a friend, Gina Tria in Barangay Pinagsabangan 2, Naujan, Mindoro Oriental to pick up her computer.

When Ms. Magsino, along with her companion Leima Fortu, were loading the computer into her car, Gina Tria heard gunshots. According to Gina, two motorcycle-riding men peppered them with bullets. Despite being hit, Magsino managed to escape by jumping in her car and driving in the direction of Calapan with Fortu. However the assailants who were

⁶¹ She was also a Volunteer Staff of Mindoro for Justice and Peace.

⁶² According to the report issued by the Dutch lawyers' group abovementioned, Magsino was under surveillance of the military. At the end of 2003, a documentary was broadcasted on local television in which it was shown that Magsino and her team were followed by the military. She was told by a journalist that she was tagged as an NPA member by the military in the local media.

riding a motorcycle caught up with them. In Barangay Amuguis, the two men on board a motorcycle with no plate number started firing at Magsino's car. Magsino's and Fortu's bodies were found with several bullet wounds in the car which fell into a rice field, one kilometer away from the camp of the 204th Brigade, Second Army Infantry Division. At the time they were found, Magsino suffered three gunshot wounds on her head without exit points; and one each on her chest, shoulder and neck. Leima also had gunshot wounds on her chest, near her right ear, knee and shoulder. The General Headquarters of the 204th Infantry Brigade was only a hundred meters away from the ambush site.

Investigation and Prosecution

Gina saw one of the assailants and identified him as Reynante Antenor who had worked for the Mayor before. On March 8, 2004, Antenor along with John Does were charged with double Killing before the Mindoro Oriental Regional Trial Court. Antenor surrendered and was held in the provincial jail. However, he is the only accused suspect to face trial.

On August 11, 2004, upon motion by the complainants, the Supreme Court transferred the venue of the proceedings of the case from the Mindoro Oriental RTC to the Quezon City RTC. To date, the prosecution has rested its case and the defense will now present their evidence.

Magsino's mother told Human Rights Now, *"Besides Gina, there was a certain witness in the crime-scene. But, because of the threat, the witness does not want to testify in court."*

2. Extrajudicial Killings related to Hacienda Luisita

(1) Labor and land dispute in Hacienda Luisita

Hacienda Luisita is a 6,000-hectare property covering 11 Barangays in Tarlac City, Central Luzon. In 1958, Jose Cojuanco Sr. acquired the land with the assistance of a government loan under the condition that it would be distributed to resident farmers after ten years. Then Cojuanco started running a sugar farm as well as a sugar mill factory by hiring residents of Luisita as farm-workers and factory-workers. After the initial ten-year period, however, Cojuanco refused to distribute the land. In 1985, it was decided in a case filed against the Cojuanco family by the Marcos government requiring the distribution of the land under the CARP (Comprehensive Agrarian Reform Program) that the Cojuanco-Aquino family must redistribute the land. Prior to this decision, the family had begun to plan development projects for the land, distributing stocks rather than land under the SDO (Stock Distribution Option).⁶³ In 1991, the stocks were distributed; however, the residents of Luisita had to remain as worker for Cojuanco with low levels of compensation. Since then,

⁶³ "Hacienda Luisita Report from Philippine Delegation" Global Ministries.

<http://www.globalministries.org/eap/ea072405.htm>

the workers have been struggling to improve their work conditions in addition to their claim to power as minority stockholders. In 2004, two major Unions started a strike demanding better working conditions. After this strike commenced, many cases of extrajudicial killings took place.

(2) Hacienda Luisita Massacre⁶⁴

On November 16, 2004, twelve workers were killed, 72 were wounded, and 110 were arrested when over a thousand members of the combined forces of the PNP (Philippines National Police) and the AFP (Armed Forces of the Philippines) stormed the blockade at a demonstration at Hacienda Luisita in Tarlac City, Central Luzon.⁵ Tear gas and chemical-laced water cannons were used in an attempt to break the picket line in the days preceding the massacre. When those measures failed, the military and police began firing shots at the crowd of over a thousand picketers. Both forces believed that the strike was instigated by the NPA .

Two major unions, ULWU (United Luisita Workers Union representing over 5,000 regional farmers) and CATLU (Central Azucarera de Tarlac Labour Union representing 750 sugar mill workers) declared the strike on November 6, 2004, after the firing of twenty three workers. ULWU's demands included an increase of work days from 1-2 days a week to 5-6 days per week, 10% wage increase, and the usage of vacant lots for subsistence agriculture. CATLU's demands included a 100-peso increase in daily wages, the reinstatement of over three hundred dismissed workers, and an increase in benefits. Since the strike started and the picket line was established in front of the main gate of the farm, the PNP had deployed to disperse the picket line. However, the workers prevented the dispersion of the picket line through peaceful ways. In the morning of November 16, 2004, the representatives of the Unions visited Cojuanco to have a negotiation. However, Cojuanco rejected to meet with the representatives. Meanwhile, besides the PNP, the AFP (Armed Forces of the Philippines) has also deployed in front of the picket line.⁶⁵

Case 4: Jesus Lasa

Background Information:

【Victim】 Jesus Lasa (34 years old, male), resident of Hacienda Luisita
Farm worker of the Hacienda Luisita Sugar Farm,

⁶⁴ Human Rights Now met with more than 10 people in the cities, interviewing leaders of the workers as well as witnessed of massacre. Human Rights Now also obtained couple of video tape which recorded the strike and massacre.

⁶⁵ According to the Manila Times (Dec 6 2005), at this point Labor Secretary Patricia Sto. Tomas allegedly deputized the Northern Luzon Command of the Armed Forces of the Philippines to help the police and the Labor representative make the workers obey the return-to-work order.

Active member of ULWU(United Luisita Workers Union)

【Incident】 He was shot on November 16, 2004 in Hacienda Luisita and later died

【Perpetrators】 The elements of AFP was identified as perpetrators by witnesses.

Circumstances of the Killing

At the time he was killed, he was participating in the workers' strike with his father, who is also a worker and resident of Hacienda Luisita. He was shot and killed in the course of the AFP's attack on the picket line. HRN interviewed his father who witnessed the whole event of the massacre on that day and in particular, the shooting of his son who was then beside him.

Around 3 p.m. of that day, at least a thousand soldiers and local police came with two Armed Personnel Cars (APC) and two fire trucks. Striking workers were warned to disperse within five minutes or many people would be hurt. Workers continued to stand their ground and in response, water cannons were used against them. Soldiers then threw canisters of tear-gas at the workers. The workers continued to maintain their ranks and moved towards the gate, which separated the workers from the military and police. As the workers moved forward, they threw stones at the soldiers to defend themselves and to make the soldiers retreat. In response, the (APC) hit and destroyed the gate and soldiers and police threw more tear-gas into the crowd. While many workers stood their ground, several ran to escape the effects of the tear-gas and people from nearby communities rushed to help the afflicted workers with pails of waters. Shortly after, soldiers fired onto the crowd.

Case 5: Juancho Sanchez⁶⁶

Background Information:

【Victim】 Juancho Sanchez (20 years old, male)

Resident of Barangay Balate, Member of the United Church of Christ in the Philippines-Christian Youth Fellowship.

【Incident】 He was shot and killed on November 16, 2004 in the course of the Hacienda Luisita Massacre while serving water to striking workers.

【Perpetrators】 The elements of AFP was identified as perpetrators by witnesses.

Circumstances of the Killing

Sanchez was passing out water to the strikers when he was shot. He sustained a gunshot wound to his pelvis which penetrated his stomach and caused his death. He was the second person to be hit by gunfire and died.

⁶⁶ Human Rights Now interviewed the victim's father on April 17, 2007.
Report for Permanent People's Tribunal

Other victims

The other victims of the massacre include Jhaivie Basilio, Adriano Caballero, Jung David, Jaime Pastidio, and Jessie Valdez. Seven additional victims, allegedly children, remain unnamed.

Investigation and Prosecution

Edgardo B. Aglipay, the Philippine National Police Chief, Director General along with Labor Secretary Patricia Sto. Tomas, Rep. Noynoy Aquino, Peping Cojuangco, Chief Superintendent Quirino de la Torre, General Romeo Dominguez of the Armed Forces of the Philippines' Northern Luzon Command, and Colonel Ricardo Visaya of the Army's 69th *Infantry Battalion* have been charged before the Ombudsman with multiple Killing, grave abuse of authority and grave misconduct.⁶⁷ However, the case was dismissed.

After the killing, the military published a report named “Trinity of War” which alleged that the NPA was instigating the Hacienda Luisita strike, and the massacre was committed by the NPA instead of the AFP.⁶⁸

Finding

The AFP insisted that the NPA was responsible for the massacre. However, the HRN fact-finding team saw lots of witnesses of the massacre, including ordinary villagers, and none of them said that the massacre was perpetrated by the NPA. The HRN fact-finding team watched several video recordings of the strike and the massacre, and saw the situation that the strikers were confronted with AFP and PNP troops right before the massacre, and the gunshots came from the direction of the AFP and the PNP. There is no evidence to prove the AFP’s allegation. Under such circumstances, it is the responsibility for the government to conduct thorough investigation of the case.

(3) Killing after the Massacre

Case 6: Ricardo Ramos⁶⁹

Background Information:

【Victim】 Richardo Ramos (47 years old, male)

Barangay Chairman of Barangay Mapalacsiao, Hacienda Luisita, Tarlac

President of Central Azucarera de Tarlac Labor Union (CATLU)

⁶⁷ PNP News,

http://www.pnp.gov.ph/press/press/content/news/2004/nov/aglipay_acteddecisively_luisitacase_nov2504.html

⁶⁸ Trinity of War”, issued by AFP

⁶⁹ HRN interviewed his older brother on April 17, 2007.

Alliance for the Advancement of People’s Rights – KARAPATAN fact sheet prepared October 26, 2005

【Incident】 Ramos was shot and killed on October 25, 2005 in a hut near his house in Barangay Mapalacsiao, Hacienda Luisita, Tarlac, during the assembly celebrating the successful Hacienda Luisita strike.⁷⁰

【Perpetrators】 Sergeant Joshua Dela Cruz and Romeo Castillo of the 48th Infantry Battalion under the 7th Infantry Division were identified as perpetrators by witnesses.

Prior to the Killing

In 1997, Mr. Ramos was elected as the chairperson of the Barangay Mapalacsiao and since then, he has served as the chairperson until the time of his death. Prior to his death, he received an award as “the most outstanding village head in the whole Philippines”. He was also the president of one of the two labor unions that participated in the Hacienda Luisita labor strike. On November 6, 2004, farm workers belonging to CATLU and United Luisita Workers Union (ULWU) staged a strike against management of the 5,000-hectare hacienda in Tarlac owned by the family of former President Corazon Aquino.⁷¹ After the “Hacienda Luisita Massacre”, while a number of supporters of the strike were killed, the unions and management continued to negotiate over back payment and future wages and benefits. Ramos was the one who led the strike. As a result of the struggle of workers and consistent negotiation led by Ramos, the workers received the back-wage and benefit from the management on October 24, 2005. Ramos was one who received the money, P 8,800,000.00 on behalf of the workers and distributed them to the workers.

Harassment

Because of his activity, Ramos was tagged as a “communist supporter” by the military. The AFP Northern Luzon Command under General Dominges, together with the mayor held a big meeting by calling all Barangay captains and city officials in Tarlac in 2005. As a chairperson of his Barangay, Ramos had to attend. In the meeting, the military explained the “Order of Battle” with power-point presentation. Ramos saw his name in the list of the “Order of Battle” in the big screen. His brother told HRN:

⁷⁰ This case was also reported by Human Rights Watch. As for the status of the prosecution, the HRW report said, “The eyewitnesses told Human Rights Watch that an arrest order had apparently been issued for the two soldiers accused of killing Ramos. However, charges against one of the accused, a private, were later dropped, and according to the victim’s brother, the remaining suspect, a Sergeant with the 7th Infantry AFP, remains free and apparently still on active service.” See <http://hrw.org/reports/2007/philippines0607/4.htm>

⁷¹ Apart from being a key strike leader Ricardo Ramos also opposed the deployment of soldiers in the village and led residents in forming human barricades in protest the construction of the Subic–Clark–Tarlac Expressway Project that cut across the village and the entire hacienda.

<http://www.sirimot.net/ilsm/blog/ilsmupdates.html>

“Order of Battle is a list of the military targets of extrajudicial killing and abduction. At the moment, he has just received an award that he is the most outstanding village head in the whole Philippines. So, he was very, very surprised. ‘Why is my name here?’ He was wondering...”

In 2005, he also received a death threat. There was a text message “*get ready we will hang your head in front of the city hall*” sent to his cell phone.

The day before he was killed, he received a funeral wreath, with the message of “RIP (Rest in Peace)” as well as cartoon of coffin placed in a box. The sender was unknown. This box soon exploded.

On October 25, 2005, between 4 p.m. and 5 p.m., two military men visited Ramos’ house asking to speak with him concerning residents of the town who the military suspected were NPA supporters. A guard of the Barangay⁷² told the men that Ramos was currently resting and could not be disturbed. This guard identified the men as “Joshua” and “Castillo” and recognized them as military personnel since they often went around the Barangay.

Joshua and Castillo returned to Ramos’ hut around 7 p.m. and again asked the guard if they could speak with Ramos. The same guard informed Ramos of their presence to which Ramos responded: *“They are accusing the striking workers and their sympathizers of being members of the NPA. I will not allow myself to be used to put my co-workers and neighbors in harm’s way. Don’t mind them.”* Because Ramos had visitors at the time, the men left.

Circumstances of the Killing

Around 9 p.m. on October 25, 2005, Ramos was in a bamboo hut, 40-50 meters away from Ramos’s residence. There were seven people inside the hut, and many other villagers surrounded the hut. With villagers, Ramos was celebrating the victory of the strike of Hacienda Luisita’s workers.

While Ramos was talking with his co-workers and constituents, he was shot twice by an unidentified man. The perpetrators immediately escaped from the hut. The perpetrator was only about 12 meters from where Ramos was sitting inside the hut. Police recovered two spent shells from an M14 rifle at the hut where Ramos was killed.

At the time of killing, there was one guard in front of Ramos’ house. When he heard the gunshot, he immediately rushed to the hut and saw the perpetrators running away. He identified the perpetrators as Sergeant Joshua Dela Cruz and Romeo Castillo who he remembered seeing earlier that day. Another guard was in the other side of the house, and also saw the perpetrators escaping. He also identified the perpetrators as Dela Cruz and Castillo. Both were soldiers of the 48th Infantry Battalion under the 7th Infantry Division led

⁷² A guard of the Barangay is commonly called “Barangay tanod” in the Philippines. He is deputized by the Barangay council and performs conciliation and peace-keeping functions at the Barangay level.

by Major General Jovito Palparan. The HRN fact-finding mission interviewed one of the guards who saw the perpetrators. He has testified before the Senate. Because of security reasons, he does not want to disclose his name.

Investigation and Prosecution

After Ramos' Killing, angry residents marched to the military detachment stationed in the area; however, they did not find any soldiers there. When interviewed, the soldiers said they left the detachment the night the shooting occurred because some of the residents were throwing stones at them.

In the wake of the killing, the Senate adopted a resolution "Directing the Senate Committee on Labor, Employment and Human Resources Development and other appropriate Senate Committees to Conduct an Investigation, in aid of Legislation, on the Killing of Hacienda Luisita Labor Leader Ricardo Ramos".⁷³ However, no criminal prosecution has been reported on this case.

Case 7: Abelardo Ladera⁷⁴

Background Information:

【victim】 Abelardo Ladera (45 years old, male)

Counselor of Tarlac City

Leader of the Bayan Muna Party Tarlac provincial chapter

【Incident】 Mr. Ladera was shot and killed by an unidentified person on March 3, 2005 at a store along McArthur Highway in Barangay Paraiso, Tarlac City.

Prior to the Killing

At the time he was killed, Abelardo was the counselor of Tarlac City and a leader of the Bayan Muna Party Tarlac provincial chapter. He was first elected as a city counselor of Tarlac City in 2001, and re-elected in 2004 with the second biggest vote among the counselors. As Chair of the city council committee on human rights, labor and employment, he was able to pass several resolutions that assisted workers and the disadvantaged. He was appointed as an official delegate of the panel of the Government of the Republic of the Philippines (GRP), observer status, in the peace negotiations between the GRP and the National Democratic

⁷³ http://www.senate.gov.ph/lis/bill_res.aspx?congress=13&q=SRN-363

⁷⁴ Human Rights Now interviewed this victims' father on April 17, 2007

This case was documented by Alliance for the Advancement of People's Rights – KARAPATAN.

According to KARAPATAN, His death is the ninth in a series of killings since the November 16, 2004 Hacienda Luisita massacre.

This case was also reported by the Amnesty International Report in 2006, see below

<http://web.amnesty.org/library/Index/ENGASA350062006?open&of=ENG-384>

as well as Asia Human Rights Commission, Urgent Appeal on 8 March 2005

Front (NDF) in Oslo.

His father told HRN *“He was a popular city counselor because of his support for the people. He was a big supporter of the Hacienda workers.”* He has been fighting for the right of the workers in Hacienda Luisita. In the morning of November 16, 2004, the day of massacre, Ladera visited Cojuanco to negotiate as a member of the workers’ delegation.

Circumstances of the Killing

At about 1 pm on March 3, 2005, Ladera was on his way home from the Tarlac City Hall when he stopped at an auto supply store along MacArthur Highway in Barangay Paraiso, Tarlac City to window-shop. As he stopped, unknown assailants shot him in the chest. The bullet pierced his heart. A teenaged boy, by-stander, saw an armed man inside a car located around 20 meters from the shop. He did not want to speak further for fear that he might be harmed for testifying about the crime that he witnessed. The victim’s driver, Edwin Arocena and a companion rushed him to the Central Luzon Doctors’ Hospital where he was pronounced dead on arrival.

Harassment by the Military

His father believes that military elements and Cojuanco killed Ladera.

“In 16 November 2004, Ladera visited Cojuanco with leaders of the strike because he wanted to help in the negotiation. Cojuanco got to know about him. His name was in the “Order of Battle”.⁷⁵ There was the Comics-style propaganda material spread by the military naming him as a member of the New People’s Army. It is not true, he was not an NPA at all.”⁷⁶

Other Cases of Killings

Although Human Rights Now has not interviewed any witnesses or relatives of the following victims during the fact-finding mission, we were informed about two other cases related to Hacienda Luisita.

- In December 8, 2004, Marcelino Beltran, the chairman of the farm workers’ organization “Alyansa ng mga Magbubukid ng Tarlac” and a key witness to the November 16th massacre was gunned down in front of his home in the remote village of Barangay San Sotero by an unidentified assailant allegedly wearing an army uniform.
- In March 7, 2005, Attorney Romeo Capulong was assaulted by an assassin in his

⁷⁵ A member of KARAPATAN had the opportunity to take photo of the “Order of Battle” and found Mr. Ladera’s name in the list.

⁷⁶ “Trinity of War”, issued by AFP, pointed out Mr. Ladera as one of the instigators of the strike, and alleged that “there have been reports that prominent local personalities, identified and directly connected with the CPP-NPA-NDF have been instigating and inciting the mill labourer and farm workers to carry on with the strike”.

hometown in Nueva Ecija, Central Luzon. He escaped and saved his life. However, attempts to assassinate him continue. Mr. Capulong served as a judge of the United Nations International Criminal Tribunal for the former Yugoslavia and is one of the Philippines' most prominent lawyers. He was representing the striking workers in Hacienda Luisita.⁷⁷

- In March 13, 2005, Father William Tadena was killed in an ambush near his church in La Paz, Tarlac. He was a priest of the Philippine Independent Church (PIC) and a strong supporter of Hacienda Luisita workers.

3 Killing of religious leaders

Case 9: Isaias Sta. Rosa⁷⁸

Background Information:

【Victim】 Rev. Isaias Sta. Rosa (47 years old, male)

A member of the United Methodist Church of Malobago, Daraga, Albay, Bicol.

Sta. Rosa used to be a pastor of the United Methodist Church in Daraga.

He was also an active member of the peasant group Bicol Peasant Movement, an affiliate organization of Kilusang Magbubukid ng Pilipinas (the Philippine Peasant Movement).⁷⁹

【Incident】 Reverend Sta. Rosa was killed on August 3, 2006 around 7:30 in the evening 50 meters from his house in Malobago, Daraga town Albay Province.

【Perpetrator】 Lordger Pastrana and other members of 9th Infantry Battalion of AFP was alleged perpetrators.

Circumstances of the Killing

On 3 August 2006, at 7:30, three hooded armed men wearing army-issued camouflaged pants, combat boots and dark long-sleeve T-shirts and another man in maroon pants and black short pants barged into the house of Ray-Sun Sta. Rosa, younger brother of Rev. Isaias Sta. Rosa. The house was located next to Rev. Sta. Rosa's house. Along with Ray-Sun, another brother Jonathan Sta. Rosa was staying in the house.

Jonathan stated that: *"The armed men said that we were NPA, and then confiscated my cell phone. They identified themselves as military troops in the 9th Infantry Battalion and asked if Isaias was around. They hit me and dragged me outside in the dark, then interrogated me. They forcibly took me to my brother's house. Ray-Sun was also forcibly taken to our brother's house. When we were taken Isaias' house, his wife, Sonia opened the*

⁷⁷ International Fact-finding Mission led by the Dutch Lawyers for Lawyers Foundation reported this case.

⁷⁸ Human Rights Watch also conducted an interview with the victim's wife, Sonia.

<http://hrw.org/reports/2007/philippines0607/4.htm>

⁷⁹ He was also a freelance writer, project consultant for non-government organizations and the Executive Director of the Farmers' Assistance organization that gives assistance to farmers in improving their livelihood.

door. My brother seemed shocked to see armed men.”

In the house of Rev. Sta. Rosa, his wife Sonia, and their children Demdem, Philip and Mikko were present. As she was calling for her husband, a short man wearing a bonnet, a maroon T-shirt, short pants and armed with a .45-caliber pistol barged inside and ordered them to lie on the floor. He was followed by about six to ten other armed men wearing hooded bonnets. The armed men gathered Rev. Sta. Rosa’s wife, children and brother in one room while tying up Rev. Rosa in other room. Rev. Sta. Rosa was forcibly taken by armed men outside of the house and all armed men withdrew from the house. Immediate after Rev. Sta. Rosa was taken outside, Jonathan, Ray- Sun and Sonia rushed from the house and shouted for help from her sister Madelyn who lived near by as well as other neighbors.

Shortly after, gunshots were heard – six shots then another three. Jonathan, Ray and other neighbors rushed in the direction of the gunshots and found the dead body of Rev. Sta. Rosa along a small creek about 50 meters from his house. They found another dead body who was later identified as Lordger Pastrana of the Military Intelligence Battalion of the 9th Infantry Division. Jonathan found from the body a Philippine Army identification card of one PFC Lordger Pastrana, with expiration date of December 9, 2008 as well as a mission order addressed to Lordger Pastrana by the 9th Military Intelligence Battalion of the 9th Infantry Division under Major Ernest Marc Rosal. The order was dated July 11, 2006 and due to expire on September 30, 2006.

Jonathan told HRN, *“I identified this soldier as the leader of the group. He was the first one who barged into our house, who was the only one who was wearing maroon short pants, and confiscated my cell phone. I was the one who examined the personnel belongings from the body. I saw the mission order. He was a military on active duty.”*

Investigation and Prosecution

The AFP has declared Pastrana was not acting on behalf of the army and was AWOL. Not long after the bodies were discovered, the police arrived led by Colonel Capinpin, the Chief of Daraga Police Station along with the Barangay Chief, Artita Padilla. The police recovered a shell from a .45-caliber pistol and one (1) caliber slug. An autopsy report showed that Rev. Sta. Rosa died after being shot six times while Pastrana died after being shot once. Forensic examinations later revealed that the spent shell was fired from the pistol found near the body of Pastrana and the slug recovered from Rev. Sta. Rosa was not fired from the same pistol. The Police were reluctant to do an in-depth investigation.

After the mission, HRN was informed about the latest development of the case.

In May 25, 2007, the Criminal Investigation and Detection Group of the Philippine National Police finally filed charge against Major. Marc Ernest Rosal, Arnaldo Manjares and 10 still unidentified persons in the provincial prosecutor’s office for the Killing of Rev. Sta.

Rosa. However on 21 June 2007, Albay Provincial Prosecutor Maria Teresa A. Mahiwo dismissed charge filed against him for lack of merit. In a three-page decision, Mahiwo explained that after thorough investigation and examination of the evidences submitted, her office found no sufficient ground to pursue the case. It said there was no evidence to show Pastrana as Sta. Rosa's killer and no eyewitness could confirm such speculation either. Mahiwo, however, asked high-ranking officials of the AFP to help identify the alleged ten armed men who accompanied Pastrana when they barged into Sta. Rosa's home before killing him at the creek nearby.⁸⁰

Harassment against Families

Sonia and her children are now living in constant fear while Ray and Jonathan rarely stay in Malobago, Daraga. Jonathan was invited to a congressional hearing on extrajudicial killing in September 11 2006. Although the military was not allowed to attend the hearing, disguised military personnel sneaked into the hearing and took photos of Jonathan. The military was immediately arrested. After a few hours' detention, they were released. Fearing for his life, Jonathan could not return to his house, and eventually also lost his job. At the time that HRN interviewed Jonathan, he was living in an internal refugee camp.

Case 10: Bishop Alberto Ramento⁸¹

Background Information:

【Victim】 Bishop Alberto Ramento (70 years old, male)

【Incident】 Bishop Ramento was stabbed to death in his church in San Sebastian, Espinoza Street, Tarlac, Central Luzon, on October 3, 2006.

Prior to the Killing

Bishop Ramento was the Bishop of the Philippine Independent Church (PIC); Co-Chairperson of the Ecumenical Bishop's Forum; founder of the Pilgrims of Peace, a multi-sectoral network seeking to resume peace negotiations between the Philippine Government and the National Democratic Front of the Philippines (NDFP); an active member of the Movement of Concerned Citizens for Civil Libertarians and a chairperson of KARAPATAN-Central Luzon. He used to be the Supreme Bishop of the IFI, and after his term as Supreme Bishop, he chose to work as a bishop in the province of Tarlac. While his home was in Cavite, he was frequently going to Tarlac and staying in the church there where

⁸⁰Inquirer, June 21, 2007. see below

http://newsinfo.inquirer.net/breakingnews/nation/view_article.php?article_id=68389

Bicol mail, see <http://bicolmail.com/issue/2007/june21/suspect.html>

⁸¹ HRN interviewed with his son, Alberto Ramento II on April 16, 2007.

he was killed.

Ramento was also known as a supporter of the poor and working class in central Luzon and Cavite. He supported the striking workers of Hacienda Luisita and condemned human rights violations committed by state forces and their agents.

He also condemned extrajudicial killings very vocally. In September 2006, as Chairperson of Ecumenical Bishop's Forum, he wrote an open letter to President Arroyo and asked the president to stop all extrajudicial killings.

Harassment

Bishop Ramento's family referred to specific threats on his life such as text messages that said "*Masyado ka ng pakialamero. Ikaw na ang susunod.*" (You've been meddling too much. You will be the next.) or "*Hindi siya tatamaan ng bala, papatayin siya sa saksak.*" (He will not be killed by bullets, but by stabbing).

His son, Alberto Ramento II told HRN, "*Yes, there were lots of death threats, especially after Father Willian Tadena, a member of the PIC, was killed. The incident happened right after the release of the 'Know your enemy' [military propaganda material]. PIC was one of the organizations listed therein as "enemy of the State". He was the leader of PIC. Every time I met with him at home, he was showing text messages in his cell phone. We were joking. However, in September 2006, his cell phone was stolen. This was the time he got really, really worried about his security. I guess someone was sending warning messages to his cell phone. Some time ago, he got a phone call and he cancelled his visit to Tarlac, and stayed home for two or three days. I think his cell phone was the only tool that protected his security.*"

Circumstances of the Killing

In late September to early October in 2006, Typhoon Milenyo came to the Philippines and caused devastation in its aftermath. Bishop Alberto Ramento decided to go to his parish in Tarlac to fix the church which was damaged by the typhoon.

Alberto Ramento II told HRN that:

"This was the first time that he asked me to visit Tarlac to fix the church on behalf of him, but I said we should fix our home first...."

He was killed during the visit to Tarlac. He was found dead in his room in the second floor of his church at around 4:00 a.m. on October 3, 2006. He was fatally stabbed seven times.

Investigation of the Killing

Bishop Ramento's family and church believe that the finding of the Philippine National

Police investigation indicating that the Killing was a simple case of robbery with homicide is an attempt to cover up a politically motivated Killing. Bishop Ramento's family explained that the entire investigation took only two hours while not allowing family and church people to enter; after two hours, the police allowed everyone to enter the scene. Ramento II said, " *Thus, the crime scene was contaminated*". The family believes that the police did not secure the crime scene, nor were fingerprints taken because such information was not included in the police report. Except for a sworn statement by the church caretaker, Archimedes Ferrer, the police did not conduct interviews of family members or others who knew Bishop Ramento.

On October 6, 2006, a criminal case of Robbery with Homicide was filed against Michael Biado, Michael Quitaliq, Raimond Perez and Joel Villanueava with the Tarlac City Regional Trial Court under the Assistant Provincial Prosecutor, Ma. Lourdes D. Soriano.

On December 6, 2006, the Bishop's family and church filed a special entry of appearance in order to register their vehement objection to the 'cover up' investigation by the police. The suspects also filed a motion for reinvestigation.

4. Killing of Left-Wing Activists

Background Information:

Case 11 : Felipe Lapa⁸²

【Victim】 Felipe Lapa (49 years old, male), labor union president and Bayan Muna member
【incident】 Mr. Lapa was killed on October 25, 2001 in front of his home in Calumpang, Liliw, Laguna.

【Perpetrators】 The family identified CAFGU members led by 204th Infantry Brigade, 2nd Infantry Division as perpetrators.

Prior to the Killing

Mr. Lapa worked as a caretaker at Milagros Farm, a piggery farm located at Calumpang, Liliw, Laguna. He was the Union president of Milagros Farm Workers Union from 1977 until his Killing in 2001. He also served as the Bayan Muna Coordinator of District Three of Laguna Province covering San Pablo, Liliw, Nagcarlan area.

Prior to his death, he has been very actively involved in mobilizing and organizing farm workers. He was always organizing big rallies for organizations such as Kilusang Mayo Uno Labor Federation (KMU) or his Milagros Union. The purpose for these rallies was to increase salaries and gain better benefits for farm workers. The rallies were typically held

⁸²HRN interviewed Mrs. Juanita Lapa, wife of Mr. Felipe Lapa on April 18, 2007.

This case was also reported by International Labour Rights Fund submitted on June 22, 2007. "Request for Review of the GSP statue of the Republic of the Philippines for violations of worker rights"

on May 1st, International Labor Day or December 10th, Human Rights Day. Lapa worked with the workers on the farm to organize the rallies with the support of Bayan Muna.⁸³

Circumstances of the Killing

In 2001 the military began to conduct surveillance on Lapa by discreetly following him to and from his work place. The first time it was noticed by Lapa, the military entered his home; and the second and third time it occurred, the military entered his place of work. On October 25, 2001 at 11:30 a.m., before lunchtime, two CAFGU members entered their home and asked his wife Juanita (hereinafter, Mrs. Lapa) and son Jhopel if Lapa was there. The CAFGU, a paramilitary unit of the military was led by 204th Infantry Brigade, 2nd Infantry Division under Jovito Palparan

Since he was in the farm at the time and still on his way home from work to join his family for lunch, Mrs. Lapa and Jhopel said he was not there. Two CAFGU members said they will wait for Lapa outside. Mrs. Lapa saw three other members sitting inside a waiting car. Since Mrs. Lapa had known two of the men before the killing, she could identify them as Mike and Dennis. (She did not know their last names).

After a few minutes, Mr. Lapa, who had bought noodles in a nearby store, arrived. The men approached Mr. Lapa in front of the house and escorted him away from the house. Jhopel saw the two CAFGU members physically turned him away from their house by placing their arms on his shoulders and moving him in the opposite direction. After a few seconds, Jhopel witnessed his father was shot and killed by two CAFGUs in front of the water tank which is around 15-20 meter away from their house. Soon after a gunshot was fired, Mrs. Lapa saw the CAFGU members running away as she was going towards her husband. She found him dead on the ground. He was shot with a .45-caliber gun just below the left ear; there was a large exit wound on the right ear.

Investigation and Prosecution

Mrs. Lapa told HRN that,

“After the incident, we provided the police with information about the killing and the identity of the assailants. We even drew sketches of them. The Police were able to recognize the assailants as two CAFGUs, Mike and Dennis. But the Police had not captured them. They said that the assailants were in the custody of a military camp of Task Force BANAHAW, 204th Infantry Brigade, 2nd Infantry Division under Jovito Palparan. The military rejected the police’s request to have the custody of the assailants”

To date, after more than five years passed, neither investigation nor prosecution has

⁸³ According to International Labour Rights Fund report, CAFGU had warned him to stop his union activity and he was repeatedly accused of being an NPA supporter.

taken place. For security reasons, Mrs. Lapa has not made an official complaint with the public prosecutor. She said

“My son and myself saw the assailants’ faces. If we point them out, they will kill us.” While there is witness protection in the Philippines, they cannot trust the system. She had, however, filed the case before the Commission on Human Rights.

Case 12: Expedito and Manuela Abarillo⁸⁴

Background Information:

【Victim】 Expedito Albarillo (male)

Councilor of Barangay Calsapa, San Teodoro

Secretary General of Bayan Muna Southern Tagalog

Manuela Albarillo (female, wife of Expedito)

A leader of a women’s association in San Teodoro

An active member of Bayan Muna.

【Incident】 The couple was killed outside of their house in Sitio Ibuye, Calsapa, San Teodoro, Oriental Mindoro about 5:30 a.m. on April 8, 2002.

【Perpetrators】 The family identified Luitenant Dimapinto and other elements of 16th Battalion of the AFP as perpetrators.

Prior to the Killings

Expedito and Manuela were Bayan Muna leaders and organizers. In 2001, the first time Bayan Muna joined the party-list elections, Bayan Muna got the largest vote in Southern Tagalog.

Since 2001, Mr. Expedito Albarillo served as a Councilor of Barangay Calsapan. He was elected as a Councilor with the third largest vote.

The couple was also active in opposing mining operations in Mindoro Oriental from 1994 to 1999. They opposed the mining operations because of the negative impact it had on the town. The cutting of trees and continuous blasting of the mountains created problems for the farms and destroyed the agricultural produce of the farmers in the town.

In 1995 there was a large disaster caused by flash flooding that destroyed their crops. The town blamed the mining operation for stripping the land which increased the chances of flooding. Prior to the start of mining operations, there were no disasters of this nature. In 2000, mining operations were temporarily stopped due to a petition from the community.

Harassment by the Military

⁸⁴ HRN interview of Arman Albarillo, the son of Expedito and Manuela Albarillo on April 18, 2007. This case was mentioned in Melo report, page 43.

Prior to their death, the military labeled the victims as local NPA and communists.⁸⁵ In 2000, General Palparan was deployed to the area's military camp. In the same year, Mayor Oscar Aldaba, a friend of Gen. Palparan, was killed. Expedito Abarillo was suspected as the assailant, arrested by the military and detained for nine months.

Two weeks prior to Albarillo's death, the military frequently visited the couple's home to encourage them to stop campaigning for Bayan Muna. The military belonged to the Philippine Army's 16th Battalion reporting to the 204th Brigade under Gen. Jovito Palparan who was a Colonel at that time. The 16th Battalion is composed of many companies such as Alpha company or Charlie company. Lt. Dimapinto who led the 16th Infantry Battalion introduced himself to the Albarillos and encouraged them to stop helping the New People's Army. The military considered Bayan Muna a communist and NPA front. The Albarillos responded by saying that "we have no reason to quit; Bayan Muna is a political party mandated by the people. It is legal and we are not combatants. It is a legitimate organization."⁸⁶

At the time of the military visits, Arman Albarillo was living in the town of Calapan. However, he visited his parents on weekends. During these visits his parents told him about the military's visit to his parents' house.

Circumstances of the Killing

On April 8, 2002, around 5:30 a.m. a group of about eight armed men, some of whom were in complete military uniform and others wearing black clothes with bonnets, arrived at the Albarillo home. These men tied up the Albarillos and dragged them outside. Adeliza, the Albarillos' youngest daughter, 11 years old, was in the house at the time. The noise from the scuffle woke her and she witnessed her father being hog-tied by armed men in fatigues.

Arman's aunt Lorna Pantoja and his cousin Eleonor Albarillo Pantoja who lived next to the Albarillos, witnessed the couple being forcibly taken away by the armed men.

They saw Manuela pleading to the military, "*We have not done anything wrong. I am a member of Bayan Muna, I am not a communist or a member of NPA*". After a few minutes, when the Albarillos and their attackers were no longer in sight, Lorna and Eleonor heard several gunshots. They rushed to the scene and they found the dead bodies of Expedito and Manuela with multiple gunshot wounds. Expedito's left eye was even removed using a knife.

⁸⁵ According to the Melo report, the police report of the case refers to the wife as "Lie-Low member of CPP/NPA" and Expedito was supposedly linked to the assassination of Mayor Oscar Aldaba of San Teodoro.

⁸⁶ According to report for the Permanent People's Tribunal, on March 19, 2002, Expedito visited the camp of the 16th Infantry Battalion to clear his name from the "Order of Battle". In the camp, believing it was part of the process of cleaning his name, he had his photo taken by the military .

Identifying the Perpetrators

Arman told the HRN fact-finding mission,

“The group who killed my parents was the 16th Battalion. Lt. Dimapinto was there. Because, at 10 o’ clock in the morning of this day, my cousin Eleonor went to town police/ military camp to report the incident and saw Lt. Dimapinto wearing the same clothing as the perpetrators. Although assailant was wearing bonnet and hiding his face, my cousin realized Lt. Dimapinto as the assailant. Because it was exactly the same clothes, same height, same weight, and he had the same Ilocano dialect as the perpetrator.”

Police Investigation

After the incident, the brother of Expedito, immediately went to the town proper together with Mario Aldaba, to report the incident to the police but instead of immediately investigating the incident, the San Teodoro policeman were reluctant and said that they do not have a driver and were still waiting for other colleagues. It was only two hours after the crime was reported that the police investigating team left their station to conduct a crime scene investigation.

There has been no development in the investigation or prosecution of the case.⁸⁷ The family filed the case before the Commission on Human Rights, but because of the lack of any assurance of their security, they could not pursue a criminal case.⁸⁸

Harassment of the Families

Because their lives are in danger, the victims’ children, Arman and Adeliza have been relocated to an internal refugee camp, living in absolute poverty away from their extended family. Arman has continuously received death threats from the military.

Case 13: Romeo Malabanan⁸⁹

Background Information:

⁸⁷ According to the report for the Parmanent People’s Tribunal, later, the police team claimed that they have “mistakenly exposed” the film bearing the photos taken at the crime scene and that they lost the empty shells that were recovered at the scene. In their report, the police officers who conducted the investigation concluded that “the death of Expedito Albarillo and Manuela Albarillo were the handiwork of groups or persons who executed their victims without motive whatsoever.”

⁸⁸ According to the Melo report, the PNP obtained the statement of the mother of Expedito Albarillo that she was no longer interested in pursuing the investigation. It would seem that this is the reason why the police has stopped any further investigation.

⁸⁹ HRN interview of Romeo Malabanan’s wife on April 18, 2007.

【Victim】 Romeo Malabanan, Technical Assistant of Bay, Laguna Mayor Edwin Ramos.
Secretary General of Laguna chapter of Bayan Muna Party

【Incident】 Mr. Malabanan was shot and killed on December 23, 2003 in front of his home in Barangay Puypuy, Municipality of Bay, Laguna.

Prior to the Killing

Mr. Malabanan was the former chairperson of the Laguna-wide peasant organization PUMALAG (Pagkakaisa ng Magsasaka sa Laguna). Since the establishment of Bayan Muna party, he had been an active member of Bayan Muna.

Mr. Malabanan suffered a stroke in 2000 and the right side of his body was paralyzed. After a 6-month treatment, he learned to walk and write with his left hand. He has never fully recovered from his stroke; he has been limping and writing in his left hand until his death. Nevertheless, in order to have his 4 children go to school, Malabanan, adamant about working, served as a technical assistant in the municipal office in Bay, Laguna.

Mr. Malabanan continued his advocacy work despite of his frail health. As Secretary General of Bayan Muna, he campaigned for the party in the Bay town, helping the party to receive the largest votes in Laguna during the 2001 elections.

In 2001, the military established a camp in Barangay Tranca, Bay. The purpose of the camp was to maintain a military presence in the area. Malabanan protested the establishment of this camp because a military camp already existed in Barangay Bitin, one village away. Malabanan felt there were too many soldiers in one place and too much of a military presence. Along with the Mayor and NGO groups, Malabanan participated in a dialogue with the military to discuss the setting up of a camp. In addition to this dialogue, he brought up his concerns with the governor of the province. The town of Tranca did not hold a rally; however, there was a rally in the capital city which, Malabanan and his wife joined. His wife believes that these activities (the dialogue and participation in a rally) caused him to become a target of the military.

Circumstances of the Killing

On December 23, Malabanan woke up at 5 a.m. in order to prepare for a trip to the provincial capital of Santa Cruz in Laguna. He went there to distribute Christmas gifts for the poor which were arranged by the governor's office. Malabanan returned from the capital between 7 a.m. and 8 a.m. After his return, his wife began their daily routine of preparing his food and helping him bathe and dress. After getting dressed, Malabanan waited outside to catch a tricycle to his next appointment.

While crying, Mrs. Malabanan told HRN,
“Usually I waited for a tricycle with him in front of our house, but on this day, I went back to

the house. That was the first time I ever left him wait for a tricycle alone. As I went back to the house, I heard something exploded. But I thought, it was just firecrackers exploding, because it was the Christmas season. I realized my husband was shot when my twin shouted out that their father was shot. I ran back in front of the house and found my husband lying in his own blood. My son was outside and witnessed the Killing. He saw the perpetrator shoot his father in the face at point blank range. He then rushed to his father and as the perpetrator aimed to shoot again, he embraced his father. The perpetrator did not shoot again. He was very shocked...”

Their son was able to give a sketch description of the perpetrator. In addition to their son, Mrs. Malabanan’s sister-in-law saw the gunman in the area prior to the shooting. She gave a description that was similar to the son’s description. The perpetrator was described as a short man with short hair, but it is not known if he was with the military.

There were three police man in a patrol car about 25 meters away from where the shooting happened, but they did not apprehend the gunman. The police said they were unable to catch him despite the fact that he fled on foot. The police told Mrs. Malabanan that they were unable to shoot the suspect because the gun jammed.

The Investigation

The police came to Mrs. Malabanan’s home the night of the killing to get a sketch of the gunman, but since that time they have not contacted her concerning the status of the case. However, soldiers from Tranca have contacted Mrs. Malabanan on at least three separate occasions. Every time, the military asked if any investigation has been done and offered help. However, she has not received any. Less than a year after the killing of Mr. Malabanan, the military camp was removed; however, a reason was not provided.

Comments by the Family Member

Mrs. Malabanan believes the military was involved in her husband’s killing:

“It was planned. Why were there three policemen at the time of the killing yet they did not catch the perpetrators? It happened in broad daylight. They let the gunman free to escape.”

“I hope you and those who visited us will help my husband and other victims of political killings obtain justice. I hope you will pave the way to seek justice for all victims, even if it takes a long time to achieve justice.”

5. Killing of Labor Activists

Case 14: Diosdado Fortuna (also known as Ka Fort) ⁹⁰

Background Information:

【Victim】 Diosdado Fortuna (51 year old male)⁹¹

Chairman of the Nestle Labor Union, the Union of Filipino Employees (UFE)

Chairperson of PAMANTIK-KMU, the regional formation of trade unions based in Southern Tagalog

Regional Chairperson of Kilusang Mayo Uno (May First Movement)

Chairperson of Anakpawis Party-list organization in Southern Tagalog

【Incident】 Mr. Fortuna was killed on September 22, 2005, on the way to his home from the picket line of striking Nestle workers in Barangay Paciano, Calamba City, Laguna, during a prolonged labor dispute with Nestle. He was shot at around 5:20 p.m. - 5:30 p.m. as he was returning home alone from the picket line.

Prior to the Killing

The victim had been acting president of Nestle Labor Union, the recognized bargaining union of employees in Nestle Philippines since 1989, after its former president Militant Rojas was assassinated outside the Nestle factory during the strike.

The Nestle Labor Union and Nestle Company have had a prolonged labor dispute on the workers' retirement benefit since late 1980s until the present. As a result of their legal battle, the Supreme Court decided in favor of the workers, by finding that retirement benefits should be included in the Collective Bargaining Agreement (CBA). During the next CBA negotiation period (June 2001), Nestle attempted to disregard the Supreme Court ruling by not including retirement benefits. In January 14, 2002, Nestle employees led by Mr. Fortuna began a strike and created a picket line. However, Former Labor Secretary Patricia Santo Tomas prohibited the strike and deputized the PNP and AFP to disperse the workers from their picket lines. On January 28, 2002, fourteen days after the workers assembled their picket line in front of Nestle, approximately 1,000 PNP and AFP wearing full battle gear were stationed around the picket lines. Since this date, it has become common to see military in and around the vicinity of the Nestle factor in Cavite.⁹²

The workers continue the strike until now.⁹³ The workers have not worked at the factory

⁹⁰ HRN interviewed Noel Alemania, incumbent president of the Nestle Labour Union on April 18, 2007.

⁹¹ HRN fact-finding mission interviewed with Mr. Alemania, the current president of the Union on April 18, 2007. This case is also reported to the Permanent People's Tribunal

This case is also mentioned in the report of International Labor Rights Fund on June 22, 2007.

⁹² Prior to the deployment, the Labor Secretary Sto. Tomas issued an assumption of jurisdiction order to prohibit workers from striking. Secretary Sto. Tomas further issued a decision that the retirement benefits were no longer a bilateral agreement between union and management as decided by the Supreme Court in 2001.

⁹³ The workers then contested the order and decision of the Labor Secretary before the Court of Appeals. In June 2003, the Court of Appeals found the Labor Secretary abused her authority thereby nullifying her order and

since January 14, 2002 – approximately five years and two months at the time of this interview. During the past five years, the workers led by the victim held several mobilizations and protests frequently. They staged massive campaigns both locally and internationally, which has infuriated Nestle management.

Harassment and Surveillance

According to Mr. Alemania, who is the current president of the Union and was the vice-president at the time of Mr. Fortuna's death, Mr. Fortuna was under constant surveillance prior to the killing. Plainclothes men, people riding motorcycles, and even police were seen in front of the picket-line, his home, the regional office of Anakpawis as well as Kilusang Mayo Uno. Mr. Fortuna told HRN that he got death threats too.

Mr. Alemania said that Mr. Fortuna and himself were listed in the Order of Battle. Prior to the assassination, General Cesar Sarino at Camp Vicente Lim invited Mr. Fortuna together with regional sectoral leaders and informed them that "95 unions under Kilusang Mayo Uno, including Nestle Union were suspected fronts of CPP-NPA."

On 12 October 2003, another labor organizer, Jose Betito was mistakenly abducted. Perpetrators mistook him for Mr. Fortuna. According to Mr. Betito, abductors showed him Mr. Fortuna's picture and asked Mr. Betito about Mr. Fortuna.

Circumstances of the Killing

On 22 September 2005, Mr. Fortuna was shot by two men riding a motorcycle and wearing helmets. One bullet entered his chest and two entered his liver. An autopsy revealed that a .45-caliber pistol was used.

The assassination occurred in front of the Japanese Plastic Factory "Sagara" and many workers were watching. Though there were many people who saw the crime, none of them was willing to testify as a witness to the killings for fear of death or reprisal.

Harassment after the Killing

Mr. Alemania became president of the Nestle Union and led the strike after Mr. Fortuna's death. Since then, Mr. Alemania has been under surveillance. His family claims that unidentified men riding motorcycles are frequently around his home. He is living under fear of assassination.

decision. Nestle challenged the court's decision and appealed to the Supreme Court. In August 2006, the Supreme Court found in favour of the workers and ordered Nestle management and union leaders to negotiate retirement benefits. Nestle disliked this decision and filed for a clarification of the Supreme Court's ruling. At this time, the workers are waiting for the results of the motion for clarification and have filed a partial motion for reconsideration.

Case 15 : Jesus “Buth” Servida⁹⁴

Background Information:

【victim】 Jesus “Buth” Servida (36 years old, male)

A former worker of Yazaki-EMI,

External organizer of Samahan ng Manggagawa sa Emi Yazaki (SM-EMI)

Leader of the Solidarity of Cavite Workers

【Incident】 Mr. Servida was shot dead by a lone assassin in front of Gate 2 of the Japanese-owned Yazaki-EMI in Cavite, Southern Tagalog on December 11, 2006. Servida was killed instantly when hit in the face and mouth; while his companion Joel Sale sustained gunshot wounds.

Prior to the Killing

Mr. Servida worked at Yazaki-EMI for 14 years as an operator in the production section and became an officer of the union Kristong Manggagawa sa EMI (KM-EMI) of the Yazaki-EMI.

However, because of allegations that KM-EMI was influenced by Governor Ireneo Maliksi’s “No Union, No Strike” policy, an intra-union dispute started in 2002.

Mr. Servida was dismissed by the management on December 20, 2005 together with twenty-seven other workers who were known to be in opposition to the older company union Kristong Manggagawa sa EMI (KM-EMI). Among those dismissed was former union president Gerardo Cristobal. They then established a new union named Samahan ng Manggagawa sa Emi Yazaki (SM-EMI).

Servida’s dismissal along with three former leaders of KM-EMI was the height of the intra-union dispute in which management opposed the new union (SM-EMI) and supported the former union (KM-EMI). Although management opposed SM-EMI, they won the certification election in June 2006 which allowed them to enter into labor negotiations with Yazaki. In spite of the dismissal, Mr. Servida served as an external organizer of the SM-EMI union.

Mr. Servida was also acting as the leader of the “Solidarity of Cavite Workers” an alliance of labor organizations and unions based in Rosario, Cavite. Ms. Servida was known to be active in giving trainings and helping employees from other companies to form unions. His former colleagues told us, “*All unions in Cavite were relying on Servida*”.

⁹⁴ HRN fact-finding mission interviewed with on April 16, 2007 with victim’s former colleagues, Ramilo F. Tined and Lea R. Ligaya. The mission also met with victims farther, wife, and two daughters. This case is also reported by Asia Human Rights Commission, Urgent Appeal in December 14,2006 Cavite Ecumenical Movement For Justice and Peace

Circumstances of the Killing

On December 11, 2006 at around 6 a.m. in the morning, Michael Omedes, Jesus “Buth” Servida, Jeminiano Retutar and Joel Sale were in a jeep to deliver vegetables at Gate 2 EMI YAZAKI. After parking the jeep in front of the gate, Mr. Servida was shot as he got out of the driver’s seat of his car in front of the company entrance gate early on the morning, around 6:18 a.m. The perpetrator is said to have used a .45-caliber pistol.

Harassment

According to his former colleague, Mr. Servida was under surveillance prior to his killing. His former colleagues told HRN, *"In our meeting, he was always saying that 'somebody is watching me, even my family'..."*

In April 28, 2006, an assassination was attempted on former union president Gerardo Cristobal who was ambushed near the Yazaki-EMI plant. The gunman in Cristobal’s attack was identified as Romeo Lara, a policeman and a member of the Cavite Civil Security Unit headed by Chief Larry Reyes. The Cavite Civil Security Unit is known to work with Cavite Governor Ireneo Maliksi. The suspect in Cristobal’s case argued that Cristobal was the one who ambushed him, and he had just defended himself. The suspect was not convicted.

Mr. Servida’s colleague suspected that the killing of Mr. Servida and the ambush of the Mr. Cristobal were linked.

Investigation and Prosecution

To date, there is no update in Servida’s case as no one has been able to identify the shooter who was holding an umbrella and wearing a raincoat. The colleagues claimed that it took long time for the police to come to the crime scene, and no sincere investigation has been taken place in this case.

Another Killing

On March 10, 2008, Mr. Cristobal was shot and killed by identified assailants.

6. Killing of a Child who was Named an NPA Member

Background Information:

Case 16: Grecil Galacio⁹⁵

【Victim】 Grecil Galacio (9-year-old female)

Second grade student at SimSimen Elementary School in New Bataan

⁹⁵ Human Rights Now interviewed with her father Gregorio Galacio and mother Virginia Buya. Alliance for the Advancement of People’s Rights – KARAPATAN Fact Sheet prepared on April 3, 2007

【Incident】 Grecil was killed around 8 am on March 31, 2007 near her home in Purok 6, Barangay Kahayag in New Bataan in Compostela Valley Province, Mindanao.

【Perpetrators】The perpetrators were allegedly the elements of 67th Infantry Brigade of the AFP.

Background of the Victim

Grecil's father, Gregorio Galacio, and mother, Virginia Buya were farmers making banana and coconut wine in Purok 6, Barangay Kahayag in New Bataan in Compostela Valley Province, Mindanao. The family was living in peace. Their daughter, Grecil, was an elementary school student. While helping with her mother's work, she was enjoying studying at school. According to Gregorio, the father of Gregorio was paramilitary and was killed by the NPA. Because of this tragedy, the family was far from sympathetic to the NPA.

Circumstances of the Killing

At around 8am on March 31, 2007, five people carrying guns went to their place and asked permission to leave their belongings around the house and take a bath in the river near to the family's house. Gregorio and Virginia recognized them as NPA, from their uniforms and their carrying arms.

Gregorio said OK, since he thought they were also human beings. Meanwhile, the daughter Grecil and her six-year-old brother Gary asked their parents for permission to take a bath at the nearby river. After their father gave his permission, Grecil and Gary went ahead to the river before the NPA men took their bath. Instead of taking a bath, Grecil and Gary were just playing with water in the river. The family and the NPA did not know each other at all. Three NPA members were taking a bath far from the children while some were resting around Gregorio's house.

At around 8:30am, the military, members of the 28th and 67th Infantry Brigade based in Compostella Valley, came from the mountain and started firing around the house. At the time, Virginia was in the house alone, Gregorio was working at the top of a coconut tree and the two kids were in the river. The father was on the farm and the mother was changing her clothes inside the house. Suddenly they heard firing. When Gregorio heard the gunshots, he ran into the house, took his wife and ran away together. The NPA members around the house also ran away.

As Gary heard gunfire he called out to his older sister. After hearing no response he ran after his parents without his sister and successfully escaped. The parents believed that Grecil also followed them. Later they noticed Grecil could not follow them.

The family except Grecil ran away to a relative's house and then went to the Barangay hall. As the Barangay Captain Eulogio Almasa noticed the fighting, he told the family to stay

in the hall, and went to the area of the family's house and helped other people to evacuate. Along the way, the military told the Barangay Captain that there was a dead body.

The military told the captain that there was a NPA child's dead body in front of a house. When the captain arrived at Gregorio's house, he found Grecil's body.

Grecil's remains were found a few meters from the house. She was hit on the right elbow and she died by a fatal hit to the left side of her head.

The military accused Grecil of being an NPA child soldier. In their investigation, they took a picture of her remains lying next to an M16 rifle loaded with several kilos of ammunition. This is contradictory to the statements of neighbors and Captain Almasa, which stated that when they saw her body there was no rifle or ammunition. In the picture, the M16 rifle appeared to be the same height as Grecil and because the rifle was fully loaded, it would weigh several kilos, which makes it questionable that a child of Grecil's size could handle such a weapon. Also, her father said that "Grecil was going to school, here is the school ID. NPA child soldiers do not go to school".

Incident after the Killing

At 2pm on the same day, Gregorio was informed that he could see her daughter in the military-police station. When he visited the military-police station with Barangay captain, he saw Grecil's dead body outside of the police station on the ground. Gregorio cried and shouted, and tried to embrace her. However, he was not allowed to even touch her.

Instead, he was interrogated for 4 hours. The military was accusing him of being an NPA member. After the prolonged interrogation, the family could get the body at 6pm. The body was left in the sun during the 4-hour interrogation. The military finally let him go and get her body. There has been no apology by the military. The family believed that military killed their daughter.

Gregorio said, *"Some of military attended her funeral. We never approached them in the funeral. However, one soldier approached Gary and said, 'Please do not think all military is bad people. Actually, when a soldier was going to kill your sister, I asked him to stop, because she was child. But he did not stop....' Since then, we believed the military killed her."*⁹⁶

After her death, Grecil's parents filed a murder complaint at the CHR against elements of 67th Infantry Brigade led by 2nd Lt. Francis John Gabawa. Grecil's parents had also filed criminal and administrative cases before the Regional Trial Court and the Office of the Ombudsman in the National Defense Force. The parents claimed that soldiers summarily executed Grecil and later labeled her a combatant of the NPA to justify her death.

At the time of the interview, the parents feared prosecution for rebellion. Also, they were

⁹⁶ Gary could not identify this soldier's name nor be informed of the name of perpetrator.

afraid of being killed. They asked HRN repeatedly, “*Please help us, we are in danger*”.

Investigation and Prosecution

On May 21, 2007, CHR in Southern Mindanao issued its decision signed by CHR regional director Alberto B. Sipaco Jr. While the commission denied the military’s allegation that Grecil was a child combatant of the NPA, it said that Grecil was killed in the crossfire between soldiers and members of the communist New People’s Army, that the encounter was legitimate, and that there was no evidence that the soldiers had violated the rights of Grecil.⁹⁷ “The complainant failed to provide substantial evidence ... the respondents were able to deny the allegations through counter-affidavits and countervailing evidence,” Mr. Sipaco said in his decision. The CHR emphasized that there was no evidence to suggest that the troops acted irresponsibly and with disregard to existing protocols.⁹⁸ Several rights groups criticized the decision by saying “it passed the burden of proof to the victim and her family.” Despite the parents’ request for an independent autopsy by forensic experts, CHR has not conducted any scientific review of the dead body or autopsy.

Finding

In this case, the army justified the killing by alleging that the girl had been armed with an M16 rifle and was that she was a child soldier. The HRN fact-finding team found evidence to the contrary. First, NPA child soldiers generally do not attend school, but they found that she was an elementary school student with a student ID. Second, it is unlikely that the girl could have physically handled a one-meter long rifle in the first place. Moreover, it is difficult to believe that her family supported the NPA, since his own father had been killed by the NPA. The military later changed the story and said that the NPA shot her. However, if it is true, why did AFP condemned her as an NPA child soldier immediately after the killing?

The death of the girl is most likely caused by an AFP’s attack against an innocent girl. The government should investigate the killing.

7. Enforced Disappearances and Abductions

Case 17 : Sherlyn Capadan and Karen Empeño ⁹⁹

⁹⁷ Inquirer, June 7 2007, http://services.inquirer.net/print/print.php?article_id=69928

Davao Today, June 2, 2007. <http://davaotoday.com/2007/06/02/chr-clears-military-in-grecils-death/>

⁹⁸ In his counter-affidavit, Gabawa said it was the NPA who first shot at them and that they only “retaliated with a burst of gunfire.” “The bullets that hit Grecil possibly came from the other side, not from the government forces for there was a cluster of lumber blocking or covering the place where the girl’s body was found,” Gabawa said.

⁹⁹ HRN interviewed with Sherlyn’s mother as well as a witness on April, 16, 2007.

This case has also been reported by Human Rights Watch, <http://hrw.org/reports/2007/philippines0607/4.htm>,

Background Information:

【Victims】 Sherlyn Capadan (29-year-old female), a student of University of the Philippines in Diliman, Quezon City

Karen Empeño (22-year-old female), a student of University of the Philippines in Diliman, Quezon City.

Manuel Merino (male), a farmer

【Incident】 On 26 June 2006, Ms. Sherlyn Cadapan and Ms. Karen Empeño were abducted from the house they were staying in Barangay San Miguel, Hagonoy, Bulacan. Manuel Merino, who went out to help the two students, was also abducted. Since then, they have been missing.

Circumstances of the Abduction

On June 2006, Capadan and Empeño were staying in Hagonoy, Bulacan and conducting research on the peasants' situation in the community for their thesis. At around 2 a.m. of June 26, 2006, Capadan and Empeño who were staying in a farmer's house at Barangay San Miguel, Hagonoy, were forcibly taken by members of the 56th Infantry Battalion of the Philippine Army.

At the time of the abduction, a boy and his father were staying in the same house. The boy told the situation to HRN.

“Armed soldiers came to the house and demanded to open the door. My father was reluctant, but the soldier threatened us, ‘if you do not open, we will kill you’. When we opened the door, six soldiers got inside the house. Nine other soldiers were surrounding the house. We were all taken outside, forced to lie face down on the ground with the hands tied behind our backs. The two students and my father were blindfold and were asked their names. They told them their names. I was not blindfolded and I saw everything. The soldiers were hitting their stomachs and forcibly took them to a jeep. I saw the plate number of the jeep, it was RTF 597. The Soldiers told us not to talk about what happened to anybody.”

The soldiers also abducted Manuel Merino, a farmer who tried to help the girls. The boy saw the victims taken to a stainless steel jeep with plate number RTF 597.

The boy believed that the perpetrators were army personnel, belonging to the 56th Infantry Battalion. The boy said *“They were wearing the same fatigue uniforms and carrying firearms. Nobody other than military wear uniforms like that. I saw the leader of the soldiers and recognized his face. I saw him after the incident, since the 56th Infantry Battalion conducts military operations in our area.”*

Asian Human Rights Commission's urgent appeals took this case. See, <http://www.ahrchk.net/ua/mainfile.php/2006/1867/>

The boy and his father started searching for the victims in the morning by asking neighbors. Some neighbors told them that they heard the voices of women shouting from the same jeep going to the same direction as the 56th Infantry Battalion camp.¹⁰⁰

According to KARAPATAN, after the news of the abduction became public, KARAPATAN-Bulacan Chapter created an investigation team. This group went to the 56th Infantry Battalion headquarters and saw the stainless steel jeep with plate number RTF 597. The military camp, which used to be open to visitors, was closed and the group was not allowed inside.

The mother of Capadan arrived at the area in the evening on June 28, and met with a human rights worker in Bulacan, Alberto Rameriz. He said that he was abducted in the evening on 28 June by the soldiers 56 Infantry Battalion who were accompanying Manuel Merino. He was interrogated at the military detachment, but released soon.

The mother said

*“Alberto saw Manuel Merino accompanied by military. My daughter and Merino were abducted together, so it is clear that military abducted my daughter...”*¹⁰¹

She visited police, military, municipal government, and hospitals seeking her daughter’s whereabouts in vain. She met with Cornel Boac of 56th Infantry Battalion, however, he denied any abduction. She filed a writ of habeas corpus against Maj. Gen. Jovito Palparan who was then commander of the 7th Infantry division (at that time) with the families of Empeño and Merino on July 19. Ramirez testified that on June 28, 2006. The court summoned Cornel Boac and Gen Palparan to the hearing. General Palparan failed to attend the hearing six times. Upon receipt of a contempt warning issued by the court, he finally attended the 7th hearing on September 20. He has denied the abduction took place.¹⁰²

Writ of Habeas Corpus

¹⁰⁰ The witness could not expose his name because of the fear of retaliation. The witness is living at a shelter for his safety. He had to leave his home. The witnesses are actually at risk of being killed.

¹⁰¹ According to the KARAPATAN’s documentation, Ramirez was taken to several locations (Barangay San Miguel, Hagonoy, Bulacan), and finally the military’s detachment at Barangay Mercado. At the detachment, one of the men introduced himself as Arnel Enriquez and proceeded to show Rameriz two leaves of bond paper with several names written on them. Enriquez asked Rameriz about the people on the list, including Capadan. He was then told to cooperate with the men and help them identify the people on the list or suffer consequences. Rameriz was allowed to leave but was warned to report to the detachment at 2pm the following day. Instead of going back to the detachment, Rameriz reported the incident to KARAPATAN.

¹⁰² Major General Jovito Palparan was in the position of commander of the 7th Infantry Division from September 2005 to September 2006. The Melo Commission investigated his involvement with the case. On January 2007, the Melo Commission, in its report, introduced and condemned the remarks of General Palparan: “their disappearance is good for us but as to who abducted them, we don’t know.” (Melo report).

On May 27, the Court of Appeals dismissed the habeas corpus petition filed by the parents of missing University of the Philippines students Sherlyn Cadapan and Karen Empeño and a certain Manuel Merino. The three were abducted in Bulacan on June 26, 2006. The Court of Appeals noted the denials made by the military respondents in the case and noted that due to insufficient evidence, it could not appropriately charge them. “The proper remedy is not a habeas corpus petition but criminal proceedings,” the court ruled.

In its decision, the Court noted, “The respondents were not telling the whole truth as they appeared to be evasive in their declarations. They were persistent in their denials but their assertions contradict each other. There is, therefore, a need to further investigate, and delve into, the disappearance of the missing persons.” The Court said this can be done separately by the Commission on Human Rights, the police, and the National Bureau of Investigation.¹⁰³

Writ of *amparo*

In August 2007, Raymond Manalo and his brother Reynaldo escaped from military detention and disclosed that they have been tortured. They also revealed that they have seen Karen Empeño and Sherlyn Cadapan alive at Camp Tecson in Limay, Bataan.¹⁰⁴

Meanwhile, the Philippine Supreme Court unanimously adopted the new rules governing the issuance of the writ of *amparo* in September 2007.¹⁰⁵ On October 24 2007, the Philippine Supreme Court issued writs of *amparo* in the cases of Karen Empeño and Sherlyn Cadapan; farmer Manuel Merino; and brothers Raymond and Reynaldo Manalo. In the case of Karen and Sherlyn, the writ of *amparo* directed the respondents, including President Gloria Macapagal-Arroyo, Armed Forces Chief General Hermogenes Esperon and members of the AFP and PNP to either explain or file a return stating whether or not they were holding the two students in their custody. In the case of the Manalo brothers, the respondents were directed to answer charges of whether or not indeed they had abducted and tortured the brothers.¹⁰⁶

At the hearing for the issuance of the writ of *amparo* in the UP students’ case on November 21, 2007 at the Court of Appeals, Raymond Manalo testified that the two students were chained and tortured by the military and Sherlyn was raped by the soldiers.

In his testimony, Raymond identified that Master Sgt. Donald Caigas, the same suspect

¹⁰³ Sun Star June 5,2007

<http://www.sunstar.com.ph/static/man/2007/06/05/news/court.scolds.retired.general.troops.over.2.missing.students.html>

¹⁰⁴ Inquirer August 28, 2007

http://newsinfo.inquirer.net/inquirerheadlines/nation/view_article.php?article_id=85087

¹⁰⁵ The detail of the Writ of *amparo* will be discussed later.

¹⁰⁶ <http://www.jwharrison.com/blog/2007/11/03/philippine-supreme-court-issues-three-writs-of-amparo/>

in the killing of human rights worker Eden Marcellana and peasant leader Eddie Gumanoy in April 2003 was involved in detention, transfer of the UP students as well as the rape of Sherlyn.¹⁰⁷

Current status

Despite the issuance of the writ, the two students have not yet been freed. Instead, HRN received the most shameful report that the dead body allegedly of Sherlyn was found in Pangasinan on March 13, 2008.

Case 18: Ronald Intal ¹⁰⁸

Background Information:

【Victim】 Ronald Intal (24-year-old male), Charcoal maker, resident of Balate.

【Incident】 Ronald Intal was forcibly taken by armed men at around 11am on 3 April, 2006 on the highway near a motorcycle terminal in Barangay Balete.

Circumstances of the Abduction

According to a witness, a tri-cycle driver, one military car approached him, and seven soldiers got out and took him into the car.¹⁰⁹

Prior to the Abduction

Ronald is a known, active youth leader deeply involved in the struggle of peasant workers inside the Hacienda Luisita. At the strike in November 2004, he was participating into the strike and protecting the picket line. He was known for his activity by the 7th Infantry Division. Ronald was also a leader of the Samahan ng mga Kabataang Demokratiko sa Asyenda Luisita (SAKDAL or Association of Democratic Youth in Hacienda Luisita) and the Anak ng Bayan (Sons and Daughters of the People) political party.

¹⁰⁷

<http://www.pinoypress.net/2007/11/25/witness-says-2-missing-up-students-tortured-raped-inside-military-camp/>

¹⁰⁸ HRN interviewed his mother on April 17 2007.

This case was also reported by Asia Human Rights Commission, "Philippines, The Human Rights Situation in 2006" Urgent Appeal 18 April 2006. This case was also mentioned by International Labor Solidarity Mission. <http://www.ilsm.eilerinc.org/reportCL.html>

¹⁰⁹ According to a report from Karapatan (Alliance for the Advancement of Peoples Rights), when the victim's father, Gonzalo, went to the military headquarters on April 8 to inquire into his son's whereabouts, the military denied having him in their custody. Gonzalo and his wife Lourdes then sought the assistance of Tarlac City Vice-Mayor Teresita Cabal to help them locate their son. Vice Mayor Cabal told the parents that Ronald was being held by elements of the Northern Luzon Command, Philippine Army (Nolcom). She added that Ronald would only be released after Major General Jovito Palparan, the head of the 7th Infantry Division, Philippine Army, gave an order to allow this.

Investigation and Prosecution

There has been no investigation conducted by police for Ronald. His mother told HRN, “At the time of abduction, his wife was pregnant. Now the baby is 7 months old. The father is still missing. We need justice for my son”.

Cases 18 : Axel Pinpin, Aristedes Sarmiento and others (Tagaytay 5)¹¹⁰

The HRN fact-finding mission interviewed five detainees, the so-called “TAGAYTAY 5” at a jail¹¹¹. Throughout the interview, Sarmiento and Pinpin spoke on behalf of their fellow detainees.

Background Information:

【Victims】

Aristedes Sarmiento

(49 years old, male) A peasant advocate and a resident of the City of Calamba, Province of Laguna; An organizer of Katipunan ng mga Magasasaka sa Kabite; (KAMAGSASAKA-KA, or Farmers’ Federation in Cavite)

Axel Pinpin (35 years old, male) A resident of the City of Calamba, Province of Laguna; An organizer of Katipunan ng mga Magasasaka sa Kabite (KAMAGSASAKA-KA, or Farmers’ Federation in Cavite)

Riel Custodio (30 years old, male) and resident of Batangas City. An organizer of Katipunan ng mga Magasasaka sa Kabite (KAMAGSASAKA-KA, or Farmers’ Federation in Cavite)

Enrico Ybanes (59 years old, male) A resident of Tagaytay City. He worked as a seaman before making farming his livelihood.

Michael Masayes (28 years old, male) A farmer and resident of Tagaytay City.

【Incident】 On April 28, 2006, the five men were abducted when they were driving in Tagaytay.

Prior to the Abduction

Aristedes, Axel and Riel were the organizers of Katipunan ng mga Magasasaka sa Kabite (KAMAGSASAKA-KA, or Farmers’ Federation in Cavite). This organization undertakes livelihood activities including selling coffee and muscovado sugar to a trading company in Canada. As a peasant advocate, Aristedes has also worked in several non-governmental organizations and institutions such as the Center for Ecumenical Development and Action Research, the Solidarity for People’s Power. Axel was working for Kamagasasaka-Ka as a

¹¹⁰ HRN interview with Axel Pinpin on April 18, 2007

¹¹¹ The fact-finding team had interviews with five detainees, Riel Custodio, Axel Pinpin, Aristedes Sarmiento, Enrico Ybanez, Michael Masayes on April 19.

researcher and public information officer. He has also joined various political demonstrations including one that was shown on television. Prior to his abduction, he said that because of his political activities, he received warnings (including a warning from a relative who is a policeman) that the police suspect that he is supporting the NPA.

Circumstances of Abduction

On April 28, 2006 the men were on their way to Manila after they left Barangay Tolentino in Tagaytay City around 6:25 p.m. At the time, the men had about PhP 80,000 in cash to make the purchase. As they were traveling, they were stopped by armed men in plain clothes and surrounded by several vehicles. The victims were handcuffed and thrown into a van where they were blindfolded and made to lie down on the floor of the van while their abductors poked guns at them. Axel stated that he developed burn wounds from being made to lie on the floor of the van and he did not receive treatment for them until the wounds were swollen.

They were taken to various places in Manila where they were interrogated by the army and PNP while they were handcuffed and blindfolded.¹¹² They were alleged to be members of the (NPA and were tortured physically and mentally to obtain information on their alleged NPA activities.

The men were brought to an undisclosed location where they were placed in the basement of a building, which they later identified as being located on the same military camp that they are now being held. They stayed in this location for four days and four nights. During this time, they were subjected to interrogation about their alleged involvement with the NPA and a supposed plot to bomb the Labor Day rally in Manila as part of a conspiracy with military rebels of the Magdalo¹¹³ group. Thereafter, they were taken to another place, which they assumed to be in or around a military camp (Villamor Airbase or Fort Bonifacio) in Manila near the airport because they could hear airplanes coming and going all the time. The men stayed at this location three days and two nights and were then taken to the Regional Trial Court of Tagaytay on May 5, 2006. It was at this time that the group first learned they were charged with rebellion against the government.

Interrogation and Torture

During interrogation, Axel said he suffered psychological torture. He was told by his interrogators, “Are you ready to die? Do you love your family?” He would hear gunshots being shot every few hours and then told, “That was one of your comrades.” Axel also said that he had been threatened with electrocution and was blindfolded during interrogation.

¹¹² See, the report of Asian Human Rights Committee, “Philippines: The Human Rights Situation in 2006”, p. 25 -.

¹¹³ Magdalo is a group of rebel soldiers that staged an unsuccessful rebellion

However, Axel said he did not believe and refused to be intimidated by the treats and would respond to his interrogators with comments such as “Why don’t you prepare my grave already?” Axel described the interrogation room as very hot and humid, and said that other detainees were physically beaten during their interrogation.

Axel recognized the voice of his chief interrogator as the same voice as the commander of the team that abducted them. He believes the voice belongs to Superintendent Rodel Sermonia, Provincial Intelligence Officer of the Police. Axel also identified a policeman and policewoman among his interrogators. Superintendent Sermonia has since been promoted to a higher position.

Status of the Case

In response to public attention to their disappearances, facilitated by organizations such as the Task Force Detainees of the Philippines (hereinafter TFDP), the International Secretariat of SOS Torture, an international human rights organization recognized their disappearances as “forced disappearance” cases. When they were abducted, the state police agency denied the fact that the five men were taken into custody. However, on May 5, 2006, the five suddenly appeared at a district court on a charge of rebellion.

The detainees’ rebellion case is still pending in court. After a year of proceedings, the prosecutor has yet to present evidence against them. Upon the advice of their lawyers, the men have not applied for bail. Axel expressed distrust of the court’s ability to fairly administer justice.¹¹⁴

The circumstances of their re-appearance in the court suggested that they had been abducted by the state agency. Also, it shows the systematic pattern of abduction, that authorities abduct whoever they think to be related to the NPA, without any lawful procedure and torture them.

VI Extrajudicial Killings and Abductions Continue

1. Extrajudicial Killings Continue

President Arroyo ordered countermeasures against extrajudicial killings in January 2007.

¹¹⁴ Axel complained about the condition of the detainees. The wife of one of the detainees died during his detention, however the detainee was only allowed to see his deceased wife seven days later, after receiving a court order to this effect. In another example, the detainees were also deprived of sunlight and a chance to exercise outside of their cell for ten months. To protest these restrictive conditions, the detainees fasted (eating only biscuits) for forty days until March 31. Since then they have stopped eating solid food altogether. At the time of the interview, they have been on a hunger strike (no solid food) for eighteen days.

However, there is evidence that extrajudicial killings persist.

In their visit to the Philippines, the fact-finding team learned of and investigated four cases that seemed to be cases of extrajudicial killings.

Case (1) On April 12, 2007 at around 9:30 pm, unidentified armed men ambushed three activists in Barangay Cabandanan, Oton town, Iloilo province. The assailants shot and seriously wounded Jose Ely Garachico, the public information officer for the human rights group KARAPATAN. Garachico's two companions, Nilo Arado and Ma. Luisa Posa-Dominado, were abducted.¹¹⁵

Case (2) On April 16, 2007, Willy Jerus, a member of SAMASOR, a member organization of the Kilusang Magbubukid ng Pilipinas (Peasant Movement of the Philippines) was shot dead in Sorsogon City. Police have denied that there is a relationship between his victimization and his membership in political organizations.¹¹⁶

Case (3) On April 18, 2007, Carmelo Palacio, a radio reporter of the radio station ran by the government was shot dead in Nueva Ecija province. He is the second journalist killed in 2007.¹¹⁷

Case (4) On April 19, 2007, Delfin Mallari Jr., a journalist of the Philippine Daily Inquirer, was shot and seriously injured. He was shot while he was driving to a radio station in Lucena City. According to the National Union of Journalists of the Philippines, 51 journalists have been killed in the Philippines since President Arroyo came into power in January 2001.¹¹⁸

The human rights group, KARAPATAN claimed that in 2007, from January 1 to July 31, there were 60 cases of extrajudicial killings, 17 enforced disappearances.¹¹⁹

2. A witness in Alston's Report Was Killed

Based on several media reports of the case, the fact-finding team confirmed that Siche Gandinao was shot dead in Misamis Oriental province on March 10, 2007. Gandinao was a witness who gave her testimony to UN special rapporteur Philip Alston. She was a member of Bayan Muna and the farmers' group Misamis Oriental Farmers Association (MOFA) in Salay town. During Alston's visit in Mindanao, she testified before him as a witness to the February killing of her father-in-law, who was the provincial Bayan Muna chairman.

She was killed about ten meters away from a military detachment. She was shot dead

¹¹⁵ Inquire.net, Nestor P. Burgos Jr., *Ilonggo folk shocked over abduction*, (22 May 2007)

¹¹⁶ Manila Shimbun (17 April 2007), SAMASOR member and BAYAN staff shot dead near his house in Sorsogon City, Philippines, Stop the killing in the Philippines (22 April 2007)

¹¹⁷ AFP, (18 April 2007), MANILA, Philippines

¹¹⁸ Manila Shimbun (20 April 2007) and statement by the Office of the Press Secretary (19 April 2007), available at <http://www.news.ops.gov.ph/apr19.htm>

¹¹⁹ An Update on the Human Rights Situation in the Philippines, January to August 2007, KARAPATAN

by a man on a motorcycle while she was walking with her husband and children.¹²⁰

According to Bayan Muna, they have lost 129 members since the Arroyo administration came into power. The AFP denied their involvement in the incident immediately after the case was reported and said that “the killing was an execution by the NPA.”¹²¹ However, this immediate denial aroused suspicions as to how seriously the investigation was conducted.

This case has had a chilling effect upon potential witnesses.

3. Jonas Burgos Case

(1) Abduction

On April 28, Jonas Joseph Burgos was abducted by three men and a woman from the Ever Gotesco Mall on Commonwealth Avenue, Quezon City. He remains missing. He is the son of the late publisher Jose "Joe" Burgos, a known press freedom fighter during the Marcos regime. Burgos, a member of the leftist Peasants' Movement of the Philippines, had conducted a farming seminar on the day he disappeared. He was later to meet family members but never showed up and did not answer calls to his mobile phone. To date, Burgos' abduction is the most high-profile in a series of attacks on left-wing activists. The Army was linked to the abduction after the license plate of a Toyota Revo into which Burgos was bundled was traced to a jeep seized in 2006 by a joint team from the Army and the Department of Environment and Natural Resources and since then has been parked inside the Army's 56th *Infantry Battalion* in Norzagaray, Bulacan.

Despite an order from the Supreme Court, the military has failed to produce the missing activist, insisting that communist rebels, not soldiers, were involved in the abduction.

(2) Investigation

On July 9, 2007, Senior state prosecutor Emmanuel Velasco head of the panel investigating the disappearance of Jonas Burgos ordered an investigation of military intelligence agents and two other officers suspected of involvement in the abduction. He clearly pointed out that the military were involved with the abduction.

Velasco had asked the National Bureau of Investigation (NBI) to investigate (1) Army Technical Sergeant Jason Roxas, (2) Air Force Corporal Maria Joana Francisco, (3) Air Force Master Sergeant Aron Arroyo (PAF), and (4) a certain alias T.L., all detailed with the Military Intelligence Group (MIG) 15 of the Intelligence Service of the Armed Forces of the Philippines (ISAFP); (5) Army 1st Lieutenant Jaime Mendaro, reportedly assigned to the 56th IB; and (6) Lieutenant Colonel Noel Clement, formerly of the 56th Infantry Battalion and presently assigned with the Escort and Security Battalion of the Philippine Army at Fort Bonifacio.

They were summoned for questioning on the basis of the allegation of the informant that

¹²⁰ See, articles of Philippine Inside News, Manila Shimbun, Inquire on 13 March 2007.

¹²¹ See, articles of Manila Shimbun on 14 March 2007.

he has seen them at the crime scene when Burgos was forcibly taken.

However, he was relieved on July 11, two days after the issuance of his abovementioned order, by Justice Secretary Raul Gonzalez as head of the panel investigating the disappearance of the Burgos case.¹²²

(3) Current Status

In December 2007, the Court of Appeals has issued a writ of *amparo* in the case of Jonas Burgos, a day after his mother filed a petition for *amparo* to get the military to account for Burgos' disappearance. The appellate court ordered the respondents, led by Armed Forces Chief General Hermogenes Esperon, to file a return, or an official report in response to the writ in five days. To date, however, Mr. Burgos has not yet released.

VII Impunity

The UN Special Rapporteur Mr. Alston recommended that a significant number of convictions in the case of extrajudicial killings should be achieved. To do so, he recommended that the Supreme Court, Commission on Human Rights and Task Force USIG issue monthly reports of the status of cases of extrajudicial killings.¹²³

HRN is in the same view as Mr. Alston. In order to restore justice and prevent future human rights violations, a significant number of convictions must be achieved based on thorough investigation of the extrajudicial killings.

However, while the Task Force USIG reported there are several convictions on the killing of media people, local human rights group claims that no single conviction has been achieved regarding the extrajudicial killings.¹²⁴

HRN has not seen any monthly report publicly issued by the Supreme Court, Commission on Human Rights and Task Force USIG in terms of their activity on extrajudicial killings after Mr. Alston's recommendation.¹²⁵ At least, HRN is aware that there is no conviction on the cases that the HRN fact-finding mission investigated. As a result, the perpetrators enjoy impunity.

1. Failure to investigate

The fact-finding mission found that it is extremely uncommon for the perpetrators of extrajudicial killing and abduction to be arrested or face trial. In the great majority of the cases the mission has investigated, no thorough investigation has been taken place.

(1) As mentioned before, in 8 out of 15 cases of extrajudicial killings cases, the mission

¹²² Inquirer, December 27, 2007

¹²³ Alston's final report; See, <http://www2.ohchr.org/english/issues/executions/docs/AHRC8.doc>

¹²⁴ UPR written submission submitted by KARAPATAN.

Meanwhile, the Task Force USIG reported that there were several convictions of media cases.

See http://www.pnp.gov.ph/about/content/offices/spl_units/tf_usigupdates/usig_sept/usigreports.html

¹²⁵ According to the Task Force USIG's website, the recent update of their report is done in August 2007.

interviewed, the witnesses identified the perpetrators as elements of the AFP or the CAFGU. However, except the Benjaline Hernandez case, no case has been successfully prosecuted. Even in the case of Benjaline Hernandez, justice has not been done five years after her death. The alleged perpetrators obtained release on bail and have not yet been convicted, and are still working for the military.

In the case of Eden Marcellana, despite testimonies of nine surviving witnesses to the killings, the case has been dismissed twice. One of the alleged perpetrators, Master Sergeant Donald Caigas of the 204th Infantry Brigade in Mindoro is still on active duty in the AFP. According to the witness before the hearing for the issuance of the writ of amparo for the UP students, Caigas was also involved in detention, torture and rape of Ms. Sherlyn Capadan.

There is a media report that Sherlyn's dead body was allegedly found in March 2008. It is clear that failure of investigation in this case clearly caused another human rights violation.

In the case of Isaias Sta Rosa, evidence clearly showed that the 9th Military Intelligence Battallion of the 9th Infantry Division, AFP was responsible for the killing. However, recently the charge against Major Marc Ernest Rosal and others were dismissed.

In the case of Jesus Lasa, Juancho Sanchez, Ricardo Ramos, Felipe Lapa and Expedito and Manuela Albarillo, although evidence clearly showed military elements as the perpetrators, almost no effort has been made to investigate and/or prosecute the cases. It is extremely problematic that identified perpetrators in the military are enjoying impunity and no justice has been done for the victims.

In the case of Hacienda Luisita, the PNP was in the crime scene. Instead of investigating the massacre, the PNP started to arrest hundreds of strikers. The PNP failed to investigate the massacre. In the case of Expedito, the victim's brother immediately went to the police; however, the police were reluctant to respond and said that they do not have a driver and were still waiting for other colleagues. The police arrived at the crime scene a full two hours after the crime was reported. In the case of Lapa, the family provided the sketch of the assailants. Although the police were able to recognize the assailants, the police have not captured them, since the assailants were in custody of a military camp.

We have to say that this is a systematic failure to effectively investigate and prosecute extrajudicial killings.

(2) In the seven cases in which the killers have not been clearly identified, the situation is more pessimistic.

In the case of Abelardo Ladera, Romeo Malabanan, Jesus Servida and Diosdado Fortuna, no serious investigation has been conducted as of now.

The mission would like to point out the police's initial refusal to respond as one of the main problems. In the case of Malabanan, there were three policemen in a patrol car about

25 meters away from where the shooting happened, but they did not apprehend the gunman. They did not catch the gunman despite the fact that he fled on foot, nor did they use their own guns at all. The family of the victim provided a sketch of the gunman, but no further investigation has been done. Failure by the police to respond in this case would suggest that they, at the very least, acquiesced to and were aware of the killings.

In the case of Bishop Alberto Ramento, the police immediately concluded that the case was just a simple robbery with homicide without interviewing family members and colleagues. Bishop Ramento's family stated the police investigation was poorly conducted. Police did not secure the crime scene enabling people to enter, they took no fingerprints at the crime scene, and except for a sworn statement by the church caretaker, the police did not conduct interviews of family members or others that knew him, and the police did not look into specific threats the Bishop received prior to his death.

In the case of Grecil, the military declared that she was an "NPA child soldiers" immediately after the killing. This allegation was denied by the Commission on Human Rights that found Grecil was not an NPA child soldier. The military changed its story and started accusing the NPA as the killer of Grecil. The fact finding mission wonders why the authority initially believe that she was an NPA child soldier if she was a victim of the NPA.

2. Failure of the TFU

The Department of Interior and Local Government (DILG), which controls the national police, established the Task Force USIG (TFU). TFU's primary aim is to investigate the killings of those involved in progressive political organizations as well as the killings of media members. DILG wants to secure witnesses, establish who is responsible for the killings, and more generally take a proactive role to ensure that citizens are protected¹²⁶.

However, we cannot see that TFU has properly worked towards prosecution/punishment on the basis of allegations from victims of human rights violation.

According to materials¹²⁷ on the TFU website, the TFU has recorded a total of 116 cases of slain party list/militant members since 2001. Of these, 56 cases have been prosecuted and 60 cases are under investigation.¹²⁸ However, there is a huge gap between the numbers the TFU has listed and the numbers that human rights organizations have produced.

The TFU explains the gap by discounting the numbers produced by human rights organizations such as KARAPATAN, Amnesty International, Bayan Muna, and CRP-MC.

¹²⁶ See. The report of TFU 'Report on Task Force "USIG" Accomplishments' (http://www.pnp.gov.ph/about/content/offices/spl_units/tf_usigupdates/usig_sept/usignews.html)

¹²⁷ See. "Report on Task Force "USIG" Accomplishments".

¹²⁸ According to a press release on 18 April 2007, there are 116 cases on the TFU list. Of these, 461 cases were excluded and 215 cases were placed under review. As to the five alleged survivors in the KARAPATAN report, KARAPATAN admitted their mistakes.

For example, the TFU argued that 462 cases out of the 783 cases alleged by KARAPATAN as of November 14, 2006 were invalid and should be excluded.

One reason for this exclusion was a “lack of report to local police”. The second reason was that the cases were caused by conflicts between the army and the NPA. Other reasons included personnel motive and robbery. TFU also excluded a number of cases alleged by Amnesty International for the same reasons. Similarly, the TFU was only willing to admit 27 of 52 cases reported by the National Union of Journalists of the Philippines. The TFU gave reasons for eliminating 15 of the cases, and placed the remaining 6 cases under review.

With regard to the cases that were excluded, it does not appear that the TFU held a hearing or produced an official explanation as to why those cases could validly be excluded. None of the cases the fact-finding team investigated were cases that the TFU was willing to investigate or prosecute.

To try to address this point, the fact-finding team met with Mr. Melchor Rosales, the Under-Secretary General of DILG. The team expressed concerns regarding the apparent impunity in the cases they had investigated. Mr. Rosales’s response was that the “TFU would not work unless information is officially provided.” He stated that reports provided by KARAPATAN could not provide the requisite credibility for establishing information therein because KARAPATAN had made mistakes in the past: five victims in KARAPATAN’s victims list had been found alive.

Additionally, Mr. Rosales stated that extrajudicial killings did not exist in the Philippines. He said that only “unexplained” killings existed.¹²⁹

The TFU admitted military involvement in eight cases prosecuted by the TFU. However, the TFU has attributed all of the other killings to a purge of leftists. This view contradicts both the Alston report and the Melo report. The TFU does not give due regard to the findings of the Melo report¹³⁰.

As previously mentioned, the fact-finding mission could not complete investigations in all cases nor could they verify the number of extrajudicial killings. However, the fact remains that the TFU seems to discount many cases alleged by human rights organizations, does not give due explanations, and does not even start investigations that victims’ families deserve.

According to the TFU, several alleged victims claimed by KARAPATAN were later found to be alive. However, these findings have not yet established that the all claims of extrajudicial killings raised by KARAPATAN are proved to be false at all.

As stated, in most of the cases the fact-finding team investigated, victims’ families

¹²⁹ Statement in a meeting with the fact-finding team on 19 April 2007.

¹³⁰ Both the press statement by Mr. Alston on 21 February, 2007, and the report by Melo Commission denied that the killings could be attributed to purges. The fact-finding team met with KARAPATAN and PAHRA, and both organizations denied the purge argument and said, “Most cases were perpetrated by the army/police.”

stated that no investigation or prosecution has been carried out against perpetrators.

A culture of impunity for human rights violations committed by military officials must be ended. Human Rights Now urges the TFU to conduct thorough and sincere investigations in the cases we have investigated, as well as all allegations of unsolved extrajudicial killings

3. Impunity of the Military

(1) Impunity of the High-Ranking Official

The report of a special investigative commission established by the President (the Melo Commission), suggests that the Former General of the AFP, Mr. Palparan was responsible for a series of killings in his capacity as a senior military official.

In the cases we investigated, four cases of extrajudicial killings, as well as two cases of abduction occurred in locations where General Palparan was assigned. Military officials, presumably under the leadership of General Palparan, were identified by several witnesses as participants in the cases. Some witnesses also identified participation by the CAFGU, the militia group under the control of the national military. Furthermore, Mr. Palparan himself admitted that he encouraged or instigated the killing to his subordinates in the AFP.¹³¹

Despite these circumstances, however, there has been no investigation into the culpability of General Palparan.

The TFU argues that it cannot investigate senior army officials because it has no jurisdiction over them and has consequently never questioned or investigated Palparan. Moreover, Palparan has never been investigated by the AFP because “there is no official accusation against him”¹³². Given the “directive order” structure of the military, an inability to investigate senior military officials can be a hindrance to elucidating the complete truth of a given case.

(2) Impunity of the Military Personnel

The AFP is also not moving to investigate human rights violations within the organization, as well as to punish the alleged perpetrators of killings and abductions. In the cases the fact-finding team investigated, all identified perpetrators by witnesses are still on active duty.

In particular, the Marcellana and Lapa cases show that the military has been harboring the perpetrators in the military instead of punishing them. Impunity within the AFP should be immediately addressed.

The AFP’s attitude towards the judicial process, such as the enforcement of the writ of *amparo*, is not cooperative. The AFP does not punish the military personnel who were exposed through the judicial procedure to be involved in the abduction of civilians.

¹³¹ Melo report

¹³² Melo report

4. Absence of the Accountability Mechanism

Many countries have made good-faith efforts to address the issue of extrajudicial killings. For example, they have established Truth and Reconciliation Commissions¹³³ and conducted thorough investigations and identified the person most responsible for the killings by looking at “chain of commander.”

Based on our understanding of the situation, however, the Philippine government does not seem to be making good-faith efforts at truth-finding.

The Melo Commission made comprehensive recommendations regarding political will, investigation, prosecution, witness protection, and has already finished its role for truth seeking, and measure to prevent recurrence. Regarding the investigation, the Melo Commission recommended following:¹³⁴

“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.”

After more than one year passed, none of the recommendation including independent investigative mechanism, has been realized.

According to the UN Special Rapporteur Mr. Alston, the Philippine government has ordered a range of measure to respond to the problem including the following declaration.¹³⁵

“The Department of Justice (DOJ), the Department of National Defense (DND), and the Commission on Human Rights (CHR) shall establish a Joint Fact-finding body regarding the alleged military involvement in the killings. We will charge and prosecute those who are responsible.

“The CHR has been provided with an addition 25 million pesos (US \$510,000) in funding to facilitate this work.”

Despite these declarations, when the fact-finding team visited the Commission on Human Rights(CHR), the fact finding team could not receive any positive answer regarding the progress of the joint fact-finding body. The Commission did not give any comment whether a joint fact-finding effort existed at all.¹³⁶

¹³³ In Argentina, Peru, and Chile created the National Commission on the Disappeared, the “Truth and Reconciliation Commission”, and the “National Commission for Truth and Reconciliation”, respectively to conduct complete investigations and released reports.

¹³⁴ Melo report

¹³⁵ Alston report UN Doc. A/HRC/4/20/Add.3.

¹³⁶ Meeting of the fact-finding mission on April 19, 2007. People whom the mission met in the CHR explained, “We recognize the indication of the President, however we are independent and do not have to obey her order.”

With regard to the mechanism within CHR itself, CHR answered there was a special Task Force addressing the issue of extrajudicial killings within the CHR headquarters. They stated that there were only two staff members at headquarters exclusively working on extrajudicial killings and regional offices of CHR were investigating individual cases.

They repeatedly stressed that an inadequate budget limited the number of staff at headquarters that could work exclusively on extrajudicial killings. They also said that the insufficient budget was the main reason why the CHR's own "witness protection programme" has not yet been realized.

Meanwhile, CHR investigation led by Eligio Mallari issued a report that "there is no concrete evidence to show that Palparan ordered any killings, and it is improbable to prosecute him for 'command responsibility' as it is not a subject matter under the Philippine law."¹³⁷ This finding contradicts the findings of the Melo Commission. This report is not the final conclusion of the CHR, and it will be examined by all commissioners of the CHR, however, it remains a question whether the Commission endorses the impunity of Palparan based on a full and thorough investigation. There is deep concern that CHR—which suffers from lack of adequate resources and capacity, as well as having limited power to investigate public authority—instead of conducting thorough investigations, demands extremely high-level proof from victims, and then will ultimately endorse impunity.

No other governmental organ, such as the Department of Justice, investigates and holds the people responsible for the killings accountable.¹³⁸ There is no record disclosed by the Ombudsman's office in which the office investigated any public official in relation to the extrajudicial killings.¹³⁹

Human Rights Now concludes that there is no effective accountability mechanism to conduct thorough investigation on the human rights violations, identify responsible persons in the military, and prosecute them.

5. Witness's Fear of Retaliation

Through our fact finding, the majority of victims did not want to disclose their names and identities, and nor did they want to expose their faces. Many eye-witnesses are living in fear of retaliation and harassment by the military. This fear is not unrealistic at all.

First, as mentioned above, HRN has been informed that several witnesses to the extrajudicial-killing cases have actually been killed themselves.

One is a witness of the Hacienda Luisita Massacre, Mr. Beltran. At the time of his death,

¹³⁷ See, *Inquirer*, 20 March 2007.

¹³⁸ The Inter-Agency Legal Action Group (IALAG) does not address the extrajudicial killings issue either. IALAG's work on suppressing terror is so problematic that Mr. Alston recommended this body to be abolished. However, the body still exists.

¹³⁹ See, Ombudsman's website <http://www.ombudsman.gov.ph/index.php?pid=2>

he was scheduled to testify before the Congress on the massacre. Another example was a witness before UN special rapporteur Philip Alston, Mrs. Che-che Gandinao. She was killed after her testimony before Mr. Alston.

Second, there is actual harassment against the witnesses. For instance, Jonathan Sta Rosa, the brother of Isaias Sta Rosa, has testified before Senate hearings about the extrajudicial killing of his brother, and during his testimony, the military sneaked into the hearing despite it being prohibited. They took his photo, so Jonathan felt fear of assassination and had to leave his home. He is living away from his hometown in a secret location

Third, the fact finding mission saw several witnesses and families of the victims who had to live in secret, some in protected areas. The person who witnessed the abduction of two UP students is also in danger. Because of the fear of assassination, he is also living apart from his hometown. The son and daughter of Albarrilo had the same experiences. They live in a so-called “internal refugee camp” to avoid retaliation. When the mission saw the families of Grecil Buya, it was clear that they are actually living in the height of fear. *“The military is accusing me as NPA, If I stayed in Mindanao, I would be either killed or prosecuted. So I decided to come to Manila and live in secret. Please help us”*.¹⁴⁰

This fear prevents the witnesses from testifying, as well as preventing families from demanding prosecution. For example, In Lapa’s case, the victims’ wife explained why she could not demand further investigations: *“My son and myself saw assailants’ face. If we point them out, they will kill us”*¹⁴¹

In Magsino’s case, the victim’s mother told Human Rights Now, *“There was a certain witness in the crime-scene. But, because of the threat, the witness does not want to testify in the court.”*¹⁴²

In Philippine domestic law, the “Witness Protection, Security and Benefit Act” (Republic Act No. 06981)¹⁴³ was approved on April 24, 1991. According to Section 2 of the Act, “The Department of Justice...through its Secretary, shall formulate and implement a ‘Witness Protection, Security and Benefit Program’ ... pursuant to and consistent with the provisions of this Act.” Section 3 then provides that, “[a]ny person who has witnessed or has knowledge or information on the commission of a crime” may be admitted into the Program provided that

“(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

¹⁴⁰ HRN Interview with the father of Grecil

¹⁴¹ HRN Interview with the mother of Mr. Lapa

¹⁴² HRN Interview with the mother of Ms. Magsino

¹⁴³ available at http://www.congress.gov.ph/download/ra_08/Ra06981.pdf [accessed: Feb. 21, 2007]

from testifying, or to testify falsely or evasively, because or on account of his testimony.”

However, the Department of Justice is failing to implement the witness protection program.¹⁴⁴ Potential witnesses, including survivors of attacks, who have come forward, are much less likely to receive any protection. In the Philippines, there is no witness protection system independent from the military and police. When state offers witness protection measures which rely on military or police in terms of actual logistics, witnesses can never be secure.

6. Recent Supreme Court’s Effort for Justice

(1) Recent development

Under such serious circumstances, it is notable that the Supreme Court of Philippines is going to have to play an important role to redress human rights violations.

The Supreme Court Chief Justice Reynato S. Puno led the Judiciary in conducting the National Summit on extrajudicial Killings and Enforced Disappearances - Searching for Solutions from July 16 to 17 at the Manila Hotel. The meeting brought together around 400 delegates and observers representing the Executive and Legislative departments, the Armed Forces of the Philippines (AFP), the Philippine National Police (PNP), the Commission on Human Rights (CHR), religious groups, the academe, non-governmental and people's organizations, the media, and the international community.

After two days of reports, consultations, and workshops, the Summit delegates, who were divided into 12 breakout groups each chaired by a Supreme Court Justice, came out with several solutions and recommendations.

Among the specific solutions presented, as summarized by Philippine Judicial Academy Chancellor and Retired Justice Ameurfina Melencio Herrera, are the following:

- Strengthen the Witness Protection Program
- Have a local definition of “ extrajudicial killing” through legislation
- Revive the peace process and call for a bilateral ceasefire
- Need for rules or laws allowing search for missing persons in military camps
- Investigation and forensic capability building
- Separate rules for writ of habeas corpus for cases of extrajudicial killings and enforced disappearances
- Creation of an independent, credible, and impartial body to investigate cases of extrajudicial killings and enforced disappearances

¹⁴⁴ AHRC Human Rights Report (2006), *Phillipines: The Human Rights Situation in 2006*, <http://material.ahrchk.net/hrreport/2006/Philippines2006.pdf>

- Provide for issuances by the courts of protective orders similar to protective orders in domestic violence cases
- Promulgate guidelines for the exercise of visitorial powers of the CHR

(2) Writ of *amparo*

On September 25, the Philippine Supreme Court unanimously adopted the new rules governing the issuance of the writ of *amparo*. The new rule took effect on October 24, 2007.

The approval by the Supreme Court of the rules on the writ of *amparo* was its response to the unabated incidents of extrajudicial killings and involuntary disappearances.

This writ compels government, particularly security forces, to undertake all efforts to find victims of enforced disappearances and extrajudicial killings instead of resorting to mere denials as they can when faced with petitions for habeas corpus.

Chief Justice Reynato S. Puno, in one of his earlier speeches, said that "the writ of *amparo* will deny to the authorities the defense of simple denial when they are sued to produce, before the courts, the bodies of victims of involuntary disappearances" and "will hold public authorities to a high standard of official conduct, failing which they will be held accountable to our people."¹⁴⁵

Under the new rules, a petition for a writ of *amparo* may be filed anytime with the Regional Trial Court, Sandiganbayan (anti-graft court), Court of Appeals or Supreme Court, depending on the place where the threat occurred. There will be no filing fees. The new court rules allow the families of missing activists to seek court action ordering the military to explain disappearances and deaths. They may compel the military to disclose the whereabouts of missing people allegedly abducted by soldiers. This writ compels government, particularly security forces, to undertake all efforts to find victims of enforced disappearances and extrajudicial killings instead of mere denials as they can when faced with petitions for habeas corpus.

The judiciary issued several writ of *amparo*, including in the following cases:

1) On Oct 25, 2007, the Supreme Court issued a writ of *amparo* in the case of the two UP students Karen Empeño and Sherlyn Cadapan; farmer Manuel Merino; and brothers Raymond and Reynaldo Manalo.¹⁴⁶ In the hearing of the UP students' case, Raymund Manalo testified

¹⁴⁵ The writ of *amparo* was first created as a result of constitutional reforms undertaken in Mexico in 1847. It is considered the most powerful judicial instrument in Mexico which can be invoked against acts by any government official, including the President. It is also recognized in some South American countries as well as several American states.

¹⁴⁶ <http://www.supremecourt.gov.ph/news/courtnews%20flash/2007/10/10310701.php>

that the military personnel abducted the two students, and tortured them in the military custody.¹⁴⁷ To date, however, the two students are still missing.

2) On October 27, 2007, the Supreme Court, upon the authority of Chief Justice Reynato S. Puno, issued a writ of *amparo* to protect Lourdes D. Rubrico, the 63-year old urban poor leader who had been allegedly abducted in Dasmariñas, Cavite on April 3 2007, illegally detained, and subsequently released by military agents.¹⁴⁸

3) On November 7 2007, Judge Reinerio B. Ramas of Branch 18 of the Regional Trial Court of Pagadian City issued a writ of *amparo* in the case of Ruel Muñasque, 33 years old and a leader of the Christian Youth Fellowship of the United Church of Christ in the Philippines (UCCP). The writ resulted in the release of Ruel after 14 days in military custody.¹⁴⁹

4) On November 7, 2007, the writ of *amparo* was issued with respect to 22-year-old farmer Luicito Bustamante. The writ required the respondents, which included President Macapagal-Arroyo, AFP Chief of Staff Gen. Hermogenes Esperon and several other military and police officials in the Davao region to produce Luicito in court on November 14, 2007.

On November 14, Luicito appeared in the court hearing in Davao City Regional Trial Court. He initially told Judge Robillo that he was a former NPA who voluntarily surrendered to the military, but later recanted in court. He later admitted that he has been tortured by the military and followed the military's instruction by lying before the judge because he was too scared. Judge Robillo declared that Luicito can now "move freely" without further restrictions on his liberty and security.¹⁵⁰

5) On December 27, 2007, the Court of Appeal of Manila in the case of Jonas Burgos ordered the respondents, led by Armed Forces Chief General Hermogenes Esperon, to file a return, or an official report in response to the writ. The hearing of the case has started, presided over by Justice Remedios Hernando of the 7th Division.¹⁵¹ To date, Mr. Burgos is still missing.

The writ creates positive change in the cases of enforced disappearances. The writ brought about successful results, resulting in the actual release of two activists. Court hearings on the issuance of the writ in several cases helped in establishing the truth that the

¹⁴⁷ <http://www.pinoypress.net/2007/11/25/witness-says-2-missing-up-students-tortured-raped-inside-military-camp/>

¹⁴⁸ <http://www.supremecourt.gov.ph/news/courtnews%20flash/2007/10/10310701.php>

¹⁴⁹ <http://www.supremecourt.gov.ph/news/courtnews%20flash/2007/11/11090701.php>

¹⁵⁰ http://opinion.inquirer.net/inquireropinion/columns/view_article.php?article_id=101722

¹⁵¹ Inquirer, December 27, 2007

military has forcibly taken the activists in its custody without any legal procedure. In particular, in the UP students' case, the witnesses clearly stated that the victims were in the military's custody. However, the vast majority of the victims of abduction including the UP students and Mr. Burgos are still missing.

(3) Writ of *habeas data*

In January 2008, the Supreme Court has promulgated rules governing the issuance of the writ of *habeas data*, which took effect on February 2, 2008. The writ of *habeas data* is a legal process by which an individual may petition, through the courts, that the government present to the petitioner all information gathered by the government on his person, and demand that the data be corrected if erroneous, or totally destroyed if malicious and false. The writ is an additional remedy to protect the right to life, liberty, or security of a person.

However, the response of the administrative branch of the government was to totally negate the effect of the Supreme Court initiative. Before the rule took effect, President Arroyo issued Administrative Order 197, which provides for safeguards to military secrets and against interference in military operations. This response makes it possible for the military to invoke the Order to reject court orders to disclose any information gathered by the military on the victims or prospective victims of the extrajudicial killings as well as disappearances. The Order may undermine the judicial effort for the protection of the people's rights.

7. Summary

Human Rights Now has been encouraged by the recent efforts made by the Supreme Court to solve human rights violations. In particular, the writ of *amparo* may be the vehicle to redress unsolved enforced disappearance cases. However, regarding the extrajudicial killings, the court has not yet achieved convictions and punishment of the perpetrators as it has been expected to do. However, the attitude of the organs of the executive branch of the Philippine government appear not to have changed, or worse, to contradict the initiative of the Supreme Court.

Based on this situation, we underscore that the Philippine government has not fulfilled its obligation to prevent extrajudicial killings and forced disappearances from recurring. Even if the judicial branch is willing to stop the human rights violations, justice cannot be achieved without effective and thorough investigation and prosecution of all who are responsible for human rights violations. In this regard, we strongly deplore the failure of investigations and prosecutions of the cases which we investigated, most extensively the recent result of the Isaias Sta Rosa case, as well as the dismissal of chief prosecutor in the Jonas Joseph Burgos case.

The killings do not appear to be isolated incidents. They seem to be part of a

systematic pattern of human rights violations. The TFU does not launch investigations against high-ranking military officials, nor is it willing to prosecute a number of seemingly legitimate cases alleged by human rights organizations. Even if a handful of cases are prosecuted, the problems cannot be solved at all, nor can recurrences be prevented. The Philippine government should demonstrate sincerity in all aspects of its efforts to seek truth and establish justice.

As a state, the Philippine government has an obligation to conduct thorough, effective and transparent investigations into human rights violations and those who are responsible. The government should have a comprehensive picture of the cause and responsibility for the human rights violations by looking at the “chain of command” and investigating high ranking officials in the AFP. Moreover, the truth-finding should be done with victims’ full participation and with international monitoring and technical assistance as appropriate.

VIII The Policy of Neutralization Must be Stopped Immediately

1. Reasons why extrajudicial killings continue in the Philippines

The fact-finding team underscores that the root cause of the extrajudicial killing and enforced disappearances in the Philippines is the national counter- insurgency policy which does not differentiate between the NPA, armed rebels, and legal organizations and activists. Legitimate civil society organizations, such as human rights group, farmers organization, labor organization, religious organization and leftist organization are labeled as “enemy of state” “ NPA front” Accordingly, they are targeted for elimination in the course of counter-insurgency operation. Extrajudicial killing is a highly probable measure of such elimination. This view is supported by the following situations.

(1) All- Out War Policy

The Arroyo administration declared an all-out war against the CPP-NPA and set forth a policy to eradicate them as enemies of the state.¹⁵² The ultimate goal of the policy is to wipe out the New People’s Army in two years.

(2) Knowing the Enemy

The HRN fact-finding team obtained a power point presentation titled “Knowing the Enemies”. General Hermogenes Esperon, commander of the Philippine Army, in his

¹⁵² In SunStar articles dated 17 February 2006, Lieutenant General Hermogenes Esperon, commander of the Philippine Army, admits that the army considers the CPP-NPA as enemies of the state.

Regarding the Arroyo administration’s order to wage all-out war against the CPP-NPA, he states that he believes that the war helps to resolve the root causes of insurgency such as poverty. The articles are available at <http://www.sunstar.com.ph/static/man/2006/02/17/news/arroyo.orders.all.out.war.against.reds.html> and <http://www.iht.com/articles/2006/06/19/news/manila.php>. See, Melo report, p. 12 and 14.

testimony before the Melo Commission, admitted the existence of the power point presentation “Knowing the Enemy” and stated that it was made by the army.¹⁵³

In this power point presentation, lots of civil society organizations, along with leftist groups are designated and determined as “enemy organizations”. As discussed before, the fact-finding team found that most victims it investigated were members of organizations mentioned in “Knowing the Enemies.” The organizations which are designated as “enemy” includes, Bayan Muna(Case 3,7, 11, 12, 13) human rights group KARAPATAN(Case 1, 2, 10), Philippines Independent Church(Case10) , United Church of Christ in the Philippines(Case5, 9,17) , College Editor’s Guild of the Philippines(Case2) , Kilusang Mayo Uno(Case 11, 14) “.

As for the Hacienda Luisita massacre, “Knowing the Enemies designated CATLU and ULWU as enemy. Notably, in the case of Ricardo Ramos, his name was in the presentation. The HRN fact-finding team was very surprised to know that even church organizations are designated as enemy organizations and subsequently suffered the assassinations of Bishop Ramento and Pastor Isaias Sta Rosa.¹⁵⁴

(3) Order of Battle

As Mr. Alston pointed out, there is also a list called the “Order of Battle”, which lists the names of people who are recognized as enemies of the state by the AFP. The list contains the names of many leftists and human rights lawyers. Significantly, those on the list have become targets of killings¹⁵⁵. Despite the recommendation done by Mr. Alston, the Order of Battle has not publicly disclosed, nor abolished.

In four cases which the fact-finding mission investigated, the victims were listed in the “Order of Battle”.

Case 7: Mr. Ricardo Ramos

Case 8: Mr. Abelardo Ladera

Case11: Mr. and Mrs Albarillo

Case14: Mr. Diosdado Fortuna

Mr. Ricardo Ramos and Mr. Abelardo Ladera were killed in 2005 after being identified as enemies of the state in the “Order of Battle”. Mr. Ricardo Ramos was a local leader of legal activities and was killed in the Hacienda Lusita massacre on 25 October 2005. Mr. Abelardo Ladera was a city council member who was killed in Tarlac on 3 March 2005.

Mr. Albarillo was informed by the military that his name was on in the list of the Order

¹⁵³ See, Melo report

¹⁵⁴ Bishop Ramento belongs to the PIC with broke away from the Catholic Church in 1902 while Pastor Isaias Sta. Rosa belongs to the United Methodist Church

¹⁵⁵ Alston report, . As stated above, names of victims investigated in three cases heard by the fact-finding team in the Philippines were on the “Order of Battle”.

of Battle. He even visited the military camp to try to in an attempt to clear his name around two weeks before his killing.

The HRN fact-finding team finds those accounts to be reliable because the same remarks are found also from other internal documents of the military and/or police. For example, Ramos's name is in "Knowing the Enemy", a propaganda material produced by the AFP. Ladera's name is in the "Trinity of War" issued by the AFP.

The HRN fact-finding team considers that there is no legitimacy for the government to list civilians including the four victims above in the "Order of Battle". Such conduct endangers the right to life of the targeted civilians.

2. Oplan Bantay Laya

The fact-finding mission obtained a speech and its appendix concerning the "Oplan Bantay Laya (OBL, Operation Plan Freedom Watch)", which is believed to have been made by the AFP to suppress rebellion. OBL recognizes the NPA, as well as communism, as a threat to the state and urges that the threat be thwarted. OBL has been around since January 2002. There are several points to be noted.

Firstly, it is remarkable that OBL targets organizations without differentiating between the NPA and legitimate legal organizations. It says all should be "neutralized".

Secondly, a document labeled "Secret" and issued by the Headquarters Intelligence Service of the AFP on 24 September 2004 has a section of "Target Research." It states that *"All MIGs are required to come up with a COPLAN under the IP that will have a specific target and must be aimed at neutralization within a period of three months."*

Thirdly, a document printed "SECRET-OID Conceptual Framework"¹⁵⁶ also has a "Target Research" section at the beginning that says: *"This will be the basis in launching a COPLAN which sets a time frame of three months for neutralizing its target"*. It also mentions a "Knowing the Enemies" campaign¹⁵⁷.

Those documents suggest an operation plan to target legitimate leftist organizations and an aim to "neutralize" them in three months.

The term "neutralize" can be interpreted in many ways and it should be noted that the word is never defined in the aforementioned documents. However, the term has been used to imply assassination and extrajudicial killing.

¹⁵⁶ Though the date and author are unknown, the documents are believed to have been written by the Head Quarters Intelligence Service because both the contents and style of writing are quite similar to the documents dated 24 September.

¹⁵⁷ According to the document, MIG is an abbreviation for the Military Intelligence Group, OID means Operation and Intelligence Division, and IP is Intelligence Project. COPLAN is Counter Action Plan. The KARAPATAN report to the Human Rights committee dated 26 September 2006 abbreviated COPLAN as Counter Action Plan.

It is not obvious if the executions of specific individuals are ordered by high ranking officials in the AFP or if lower ranking soldiers are interpreting “neutralization”. However, it is known that the AFP has a policy of neutralizing organizations the government considers enemies of the state¹⁵⁸.

One such plan was set forth as Oplan Bantay Laya II in January 2007 and it is considered an extension of the previous plan. If the “neutralization” of targets is administered in the same way in the new plan, extrajudicial killings may continue.

The Arroyo government should clearly explain the substance and the intent of OBL, and the international community, including donor countries, should request this explanation. Additionally, the Philippine government should release the Order of Battle and clarify its purpose.

Civilians and activists must not be labeled as affiliated with the NPA nor should they be targeted by States without good reason or adequate evidence. It is a basic principle of international humanitarian law that a civilian who is not a direct participant in armed conflict should not be the target of an armed attack. The government must strictly differentiate between armed groups and civilian activists, and respect/protect the right to life of the latter under all circumstances.

If there is a policy to tolerate executions of legitimate civilian activists under the mandate of “neutralization”, the Arroyo government must stop this policy.

Even if the policy does not intend execution, its continuation makes legitimate civilian activists targets of armed attack in practice. In order to protect the fundamental human rights of civilian in the country, the Arroyo administration must put an end of the counter insurgency policy which links legal organization and activists to the insurgents, and target civilian for neutralization.

IX Philippine’s obligation under international law

International law provides legal instruments to oblige the Philippines to protect people in its territory from extrajudicial killings and investigate alleged human rights violations to prevent future crimes.

1. Right to Life(ICCPR)

Under international law, states have a duty to respect the right to life. The Philippines is legally bound by the International Covenant on Civil and Political Rights

¹⁵⁸ Melo report, stated that: “the word “neutralize” does not necessarily mean killing, but [the word] should be taken in the context of their holistic approach to the war on communism – that is, to include socio-civic and other works designed to bring communist rebels back to the fold of the law and thus “neutralize” their threat. Nonetheless, the fact that certain elements in the military would take the more direct approach to “neutralizing” the enemy cannot be discounted. General Palparan, for one, stated that he cannot categorically deny the possibility that some of his men may have been behind some of the killings.” p. 54.

(herein after ICCPR) ¹⁵⁹ as a member state¹⁶⁰, which provides the right as follows: “[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life”(Article 6 (1))¹⁶¹. The ICCPR provides that no derogation from Article 6 may be made under this provision even in case of state emergency.¹⁶² The right to life cannot be derogated in any circumstances.¹⁶³ The United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions articulates that internal political instability and any public emergency including a state of war and a threat of war may not be invoked as a justification of extrajudicial executions. ¹⁶⁴

(1) Obligation to Respect the Right to Life

As a State Party of ICCPR, the government of the Philippines has a clear obligation not to breach any individual’s right of life under its jurisdiction.

President Arroyo declared an “all-out war policy” and regards many human rights defenders and social activists as “enemies of the state” or “CPP-NDF terrorists” in the context of the “war on terror”. However, the “war on terror” cannot be an excuse for a state to cease its human rights obligations.

UN Security Council Resolution No. 1456 provides that “[s]tates must ensure that any measure taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee, and humanitarian law.”¹⁶⁵

The state’s duty to respect human rights, especially the duty to respect the right to life,

¹⁵⁹ Article 2(3) provides as follows: 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.

¹⁶⁰ The Philippines ratified the ICCPR on 23 October 1986.

¹⁶¹ International Covenant on Civil and Political Rights, G.A. Res. 2200, U.N. GAOR, 21st Sess., No. 16, art. 6(1), U.N. Doc. A/6316 (1966).

¹⁶² Article 4(2) of the ICCPR.

¹⁶³ “[I]t is inherent in the protection of rights explicitly recognized as non-derogable [...] that they must be secured by procedural guarantees [...] The provisions of the [ICCPR] relating to procedural safeguards may never be made subject to measures that would circumvent the protection of non-derogable rights.” (Human Rights Committee, General Comment No. 29, “Derogations from provisions of the Covenant during a state of emergency” (2001), paragraph 15).

¹⁶⁴ The United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (hereinafter the Principles) also provides the non-derogable character of the right to life at Article 1 that internal political instability and any public emergency including a state of war and a threat of war may not be invoked as a justification of extra-legal executions.

¹⁶⁵ UN DOC. S/RES/1456 (20 January 2003), para. 6.

neither ceases nor could it be derogate from.¹⁶⁶

In light of international humanitarian law, the State must not target any person whose activity is legal and who is not engaged in armed hostilities with the State.

As a State Party to the ICCPR, the State of the Philippines must prevent all state organs and public entities from any act which violate the right to life.

The Inter-American Court of Human Rights held, in *Velásquez Rodríguez v. Honduras*¹⁶⁷ as follows:

“ • any exercise of public power that violates the rights recognized by the Convention is illegal. Whenever a State organ, official or public entity violates one of those rights, this constitutes a failure of the duty to respect the rights and freedoms set forth in the Convention.”

The State should order and train all the element of government, including all Battalions of the army and all the elements of the police not to violate the right to life, prevent all acts of extra judicial killings and abductions, investigate all the illegal acts thoroughly and punish those responsible within state agencies. Also, the State has the legal duty to refrain from all acts which would endanger the right to life of all the people within its jurisdiction, such as naming legal organizations and persons as “enemies of the state” which would, and did indeed, encourage the elements of the government, as well as having its policy to “neutralizing such enemies” since it would cause the most effective way of neutralization—extrajudicial-killing.

The State of the Philippines must, first decline its state policy concerning “neutralization” officially, and sincerely investigate all human rights violations within all governmental organs.

(2) Obligation to Ensure Right to Life

As a State party to the ICCPR, the State of the Philippines has a legal duty to ensure the right to life.

The Inter-American Court of Human Rights held, in *Velásquez Rodríguez v. Honduras*¹⁶⁸ as follows:

“174. The State has a legal duty to take reasonable steps to prevent human rights

¹⁶⁶ According to the “Situation of detainees at Guantánamo Bay” Report for the Commission on Human Rights (UN Doc E/CN.4/2006/120, 15 February 2006), “Indeed, human rights law applies at all times, even during situations of emergency and armed conflicts. The war on terror, as such, does not constitute an armed conflict for the purposes of the applicability of international humanitarian law.”

¹⁶⁷ *Velásquez Rodríguez v. Honduras*, the Inter-American Court of Human Rights, Judgment of July 29, 1988, para 177.

¹⁶⁸ *Velásquez Rodríguez v. Honduras*, the Inter-American Court of Human Rights, Judgment of July 29, 1988, para 177.

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.”

The Court ruled that the Inter-American Convention requires states to investigate every situation violating the rights protected by the Convention¹⁶⁹ and the investigation must be always effective and never be a mere formality and carried out under the recognition of its legal duty.¹⁷⁰

The Court ruled that the Inter-American Convention requires states to investigate every situation violating the rights protected by the Convention¹⁷¹ and the investigation must be always effective and never be merely a formality, and it should be carried out under the recognition of its legal duty.¹⁷²

In the case of extrajudicial killings and enforced disappearances in the Philippines, no matter how the perpetrators are identified, the government must investigate thoroughly, identify the responsible persons, not only the actual perpetrators, but also identifying the chain of command, as well as ensuring reparations for the victims.

2. Right to an Effective Remedy

Both International Human Rights Law and International Humanitarian Law provide the right to an effective remedy. In 2005, the UN General Assembly adopted a resolution on Extrajudicial, Summary or Arbitrary Execution which provides state obligation to compensate victims of extrajudicial killings. The UN *”[r]eiterates the obligation of all Governments to [...] grant adequate compensation within a reasonable time to the victims or their families”*¹⁷³

Article 2(3) of the ICCPR also obliged state parties to ensure the right to effective remedy to individuals whose Covenant rights have been violated. The scope of obligation includes, for the first place, cessation of the ongoing violation, and investigation of human rights violations.

The Human Rights Committee General Comment 31¹⁷⁴ stated, *“a failure by a State Party to investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant. Cessation of an ongoing violation is an essential element of the right to an effective remedy.”* (Paragraph 15)

¹⁶⁹ *Velasquez Rodriguez v. Honduras*, paras. 174- 77.

¹⁷⁰ *Velasquez Rodriguez v. Honduras*, para 177.

¹⁷¹ *Velasquez Rodriguez v. Honduras*, paras. 174- 77.

¹⁷² *Velasquez Rodriguez v. Honduras*, para 177.

¹⁷³ UN Doc. A/RES/59/197(2005)

¹⁷⁴ The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, General Comment No. 31 [80] (2004) UN DOC. CCPR/C/21/Rev.1/Add.13, para. 18.

“Where the investigations referred to in paragraph 15 reveal violations of certain Covenant rights, States Parties must ensure that those responsible are brought to justice. As with failure to investigate, failure to bring to justice perpetrators of such violations could in and of itself give rise to a separate breach of the Covenant. •••Indeed, the problem of impunity for these violations, a matter of sustained concern by the Committee, may well be an important contributing element in the recurrence of the violations.” (Paragraph 18)

In this regard, the Philippines government should take all necessary measure to cease all acts of extrajudicial killings and investigate all the case to sweep impunity. Second, the scope of obligation includes access to justice.

General Comment 31 also states,

“Article 2, paragraph 3, requires that in addition to effective protection of Covenant rights States Parties must ensure that individuals also have accessible and effective remedies to vindicate those rights.”

In this regard, the state should ensure access to justice for all victims and relatives of alleged extrajudicial killing and enforced disappearances. The state of the Philippines must not disregard any claims of human rights violation raised within the country, in particular, raised by local human rights organizations. Also, in order to ensure justice, victims, relatives and witness should be able to have access to justice without fear. The state of the Philippines should take all necessary measures to protect victims, relatives and witnesses. Finally, the scope of effective remedies includes various measure of remedy.

General Comment 31 also states, *“The Committee considers that the Covenant generally entails appropriate compensation. The Committee notes that, where appropriate, reparation can involve restitution, rehabilitation and measures of satisfaction, such as public apologies, public memorials, guarantees of non-repetition and changes in relevant laws and practices, as well as bringing to justice the perpetrators of human rights violations.”*

The state of the Philippines should realize compensation, restitution, rehabilitation, satisfaction, and guarantees of non-repetition for all victims of human rights violations. Public apology is necessary as the satisfactory measure, as well as institutional reform thorough investigations of command responsibility within government. This is the key to guarantee of non-repetition.

X Recommendation

As a party to the ICCPR, the Philippine government is obliged to protect the human rights of all who live within its jurisdiction. Accordingly, the government should protect its people from human rights violations by taking appropriate measures, including the

investigation and prosecution of human rights violators.¹⁷⁵

To President Arroyo

1. End the current counterinsurgency policy

- 1) The President should put an end to the counterinsurgency policy which include tagging legitimate civil society organizations and activists as “enemies of the state” as well as targeting them for neutralization.
- 2) The President should publicly denounce and declare the abandonment of the above counterinsurgency policy which resulted in extrajudicial killings.
- 3) The President should order all governmental organs, in particular AFP and PNP, to officially cease counter-insurgency operations targeting any civil society group for neutralization.
- 4) The President should direct all military and police personnel to cease any practice linking political and other civil society groups to armed insurgent groups in the course of their activities.

2. Disclosure

- 1) The President should disclose all documents and information prepared and gathered in the course of counter-insurgency operations towards civilians possessed by the AFP, PNP and any other governmental organs including Oplan Bantay Laya, Order of Battle and information related to legitimate organizations and individual activists.
- 2) The President should officially abandon all such documents. The President should nullify Administrative Order No. 197.

3. Investigation

- 1) The President should order the AFP/PNP to cooperate with the investigation conducted by the Commission on Human Rights, Congress, Courts, PNP and DOJ.
- 2) The President should make efforts to enhance the functions of the Commission on Human Rights by the means of increasing its budget and human resources.
- 3) The President should order the Department of Justice to establish a witness protection program which is independent from the military and police in order to enable the victims to testify in safe circumstances.
- 4) The President should conduct a transparent and thorough investigation on extrajudicial killings and enforced disappearances, with the full participation of the victims/families, under

¹⁷⁵ There is, of course, an issue of human rights violations by non-state actors in the country. However, the fact that non-state actors are committing human rights violations does not negate the state’s own obligation to protect human rights.

monitoring and technical assistance by the international community, and identify and prosecute the persons responsible for the human rights violations. The investigation should include inquiries into allegations concerning high-ranking military and police officers.

5) Based on the above investigation, the President should make an official apology and offer reparations, including compensation, restitution, and rehabilitation for the victims and relatives of the victims of extrajudicial killings and enforced disappearances.

4. Peace Negotiation

1) The President should proceed with peace negotiations with the CPP/NPA and the NDF, inviting third party mediation if necessary.

2) The President should promote the effectiveness of the Joint Monitoring Committee based on the CARHRIHL (Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law).

To the Armed Force of Philippines (AFP) and Gen. Hermogenes Esperon

5. End targeting civilians

1) The AFP should cease any practice linking political and other civil society groups to armed insurgency groups in the course of their activities, in particular, villifying them as “enemies of state”, involving surveillance and harassment of them and attacking them.

2) AFP should take all necessary measures to ensure that all personnel in the military and the CAFGU cease in engaging in the above-mentioned practice.

6. Cooperation to the Investigation

1) The AFP should be cooperative with any truth-seeking effort made by the judicial branch and other governmental organs regarding the disclosure of their operational documents as well as whereabouts of the people in military custody.

2) The AFP should faithfully obey and not undermine judicial orders such as writs of *amparo* and writs of *habeas data*.

7. Measures in relation to the Abductions

1) The AFP should immediately investigate all military camps and detention centers to identify civilians who are currently under military custody.

2) The AFP must disclose the whereabouts of all the persons in its custody, and cease any form of torture against such persons and either release them or prosecute them.

3) The AFP must investigate the military personnel who committed the abductions of civilians in order to achieve adequate punishment.

4) The AFP should direct all military personnel not to take custody of civilians without any judicial authorization.

To the Philippine National Police(PNP)

8. Investigation

- 1) The PNP, in particular the Task Force USIG should investigate extrajudicial killings and enforced disappearances in order to identify the criminals, especially military personnel and police officials. The PNP should resume investigation of all the cases that local human rights groups and victims' families claim in good faith as extrajudicial killings.
- 2) The Task Force USIG should issue monthly reports of the status of the cases.
- 3) The Task Force USIG should recognize its jurisdiction over former/ incumbent high-ranking military officials and conduct thorough investigation on them as necessary.
- 4) The PNP should improve their investigative methods and put an end to the negligence in the investigation of the cases of extrajudicial killings. The PNP should utilize forensic science—mainly material evidence, with appropriate technical assistance from international experts.

To the Department of Justice(DOJ)

9. Prosecution

- 1) The DOJ should achieve a significant number of prosecutions of extrajudicial killing cases in cooperating with the PNP.

10. Protection of the victims and witnesses

- 1) The DOJ should clarify the names, the way he/she was arrested, the place, and the condition of the subjects' health for all those who were arrested without judicial authority by governmental organizations, and guarantee their access to lawyers.
- 2) The DOJ should establish a witness protection program which is independent from the military and police in order to enable the victims to testify in safe circumstances.

To the Judiciary

11. Achieve Justice and Accountability

HRN welcomes the series of reforms instituting two new writ procedures to protect human rights and expect that the same will have a positive impact on the human rights situation in the Philippines. However, these new judicial remedies have not yet freed the great majority of the victims of enforced disappearances. At the same time, despite the fact that 99 special courts have been established on the extrajudicial killing cases, substantial numbers of convictions of the perpetrators have not yet been achieved. We expect the judiciary to play the key role in ending the impunity that perpetrators still enjoy, and recommend as follows:

- 1) The Supreme Court should convey another summit by August 2008 to examine the status of all cases of extrajudicial killings, to identify the reason why a significant number of

convictions has not yet achieved in the case of extrajudicial killings and to propose remedies and further reforms.

2) Each court should implement the rule on the writ of *amparo* and writ of *habeas data* in good faith while strongly urging full cooperation on the part of the AFP.

To the Commission on Human Rights(CHR)

12. Strengthen the Mechanism

The capabilities and powers of the Commission on Human Rights should be increased as appropriate to make it more effective. In order to achieve the below, the budget of the CHR should be at least doubled.

1) The CHR should hire more experts and allocate more resources to investigate the cases of extrajudicial killings.

2) The CHR should establish its own witness protection program to secure witnesses' safety.

3) The CHR should be empowered to conduct *ad hoc* visits to any military camp to release the victims of abductions.

13. Thorough Investigation

The CHR should conduct thorough investigation tracing responsibility through the AFP's chain of command.

To the New People's Army(NPA)

14. Refrain from Attack Civilian

The NPA should refrain from attacks and abuse of unarmed civilians.

15. Peace Negotiation

The NPA should promote peace negotiations with the government and adhere to CARHRIHL.

To the Japanese Government

International society should not be indifferent to the gross violations of human rights allegedly taking place in the Philippines. The Philippines is the largest benefactor of Japanese Overseas Development Assistance (ODA) to date.

In the existing principles of Japan's ODA Charter, it is stated that "*full attention should be paid to efforts for promoting democratization...and the situation regarding the protection of basic human rights and freedoms in the recipient country.*" In this regard, the Japanese government has a moral obligation to promote the protection of basic human rights in the recipient country. We call upon the Japanese government as follows.

16 . Dialogue on Human Rights Situation

The Japanese government should have dialogues with the government of the Philippines as well as civil society organizations in the Philippines on the situation of extrajudicial killings and enforced disappearances and closely monitor the situation.

The Japanese government should monitor the progress of the following:

- 1) Change of Philippine government's policy on counter-insurgency operations against civil society groups
- 2) Activities of the Committee on Human Rights
- 3) Activities of the Task Force USIG
- 4) Status of prosecution and conviction

17. ODA and assistance Policy

1) The Japanese government should halt new offerings of yen loans until it recognizes a significant improvement of the human rights situation and the mechanisms of accountability in the Philippines. Otherwise, it will send a wrong message that the Japanese government is indifferent to the killings.

2) The Japanese government must refrain from any yen loan when the aid would accelerate confrontation between government and civil society, and may cause human rights violations. The government should rather focus on the assistance to strengthen the rule of law and respect for human rights. Favorable assistances includes: supporting the establishment of independent witness protection programs and helping improve the functioning of the Commission on Human Rights.

3) With the technical assistance to the PNP, the Japanese government should require an affirmation by the government of the Philippines to conform to international human rights standards. In particular, the Japanese government should take a firm stance, stating that the extrajudicial killings and the enforced disappearances are not allowed. The Japanese government should monitor international human rights standards and utilize these to improve technical assistance.

18. Bring the Issue within in International Community

The Japanese government should publicly express concerns about extrajudicial killings and enforced disappearances in the Philippines within the international community including at the Universal Periodic Review and other sessions of the UN Human Rights Council.



www.ngo-hrn.org

Human Rights Now

Human Rights Now Tokyo Office

3F Marukou Building, 1-20-6 Higashi Ueno, Taito-ku,
Tokyo 110-0015 JAPAN

Phone: +81-3-3835-2110 Fax: +81-3-3834-2406

Email: info@ngo-hrn.org