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# PHILIPPINES

## Political Killings, Human Rights and the Peace Process

### *1. Introduction*

Over recent years reports of an increased number of killings of political activists, predominately those associated with leftist or left-orientated groups,<sup>1</sup> have caused increasing concern in the Philippines<sup>2</sup> and internationally.<sup>3</sup>

The attacks, mostly carried out by unidentified men who shoot the victims before escaping on motorcycles, have very rarely led to the arrest, prosecution and punishment of those responsible. Amnesty International believes that the killings constitute a pattern and that a continuing failure to deliver justice to the victims represents a failure by the Government of the Philippines to fulfil its obligation to protect the right to life of every individual in its jurisdiction.

The organisation is also concerned that the killings have played a major role in the break-down of a protracted peace process and an accompanying human rights agreement, between the government and the National Democratic Front (NDF), representing the

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<sup>1</sup> In the Philippines, the terms “the left” or “leftists” encompass a broad range of political meaning. Terms commonly used to differentiate groups within this spectrum include “rebels” or “guerrillas” for members of communist revolutionary armed groups; “militants” for various mass-based unarmed people’s organisations; “progressives” for members of left-leaning political parties; and “cause-orientated groups” for various left-leaning sectoral (urban poor, peasants, workers etc.) non-governmental organizations working on social justice issues.

<sup>2</sup> Including the Philippine Commission on Human Rights, the Integrated Bar of the Philippines, *Sulong CARHRIHL* and the Catholic Bishops Conference of the Philippines (CBCP), whose President, Archbishop Angel Lagdameo, expressed concern over killings or “executions without trial” of “leftist-militants” and “defenders of the poor suspected as communists”, stating: “Whoever are the perpetrators, and whatever is the cause, the victims - irrespective of any ideology they profess - are still subjects of human rights and are entitled to due process in an unbiased court” (“Let Us Keep Human Life Sacred”, [www.cbcponline.net](http://www.cbcponline.net), 31 May 2006). The CBCP reiterated these concerns in a Pastoral Letter on Social Concerns issued on 9 July 2006, which “denounced the increasing number of extra-judicial killings of journalists and social activists suspected as sympathizers of insurgents allegedly by some ultra-rightist elements in the military”. The CBCP also denounced reported killings allegedly perpetrated by insurgents, for reasons including failures to pay “revolutionary tax”, and emphasised that: “The defence of human rights and of human dignity must itself be just. It has to be impartial, irrespective of religious belief or ideology” ([www.cpbconline.net](http://www.cpbconline.net)).

<sup>3</sup> Including the Asian Human Rights Commission, the International Confederation of Free Trade Unions, *Reporters Sans Frontieres*, the World Council of Churches and Amnesty International.

Communist Party of the Philippines (CPP) and its armed wing, the New People's Army (NPA).

The common features in the methodology of the attacks, leftist profile of the victims, and an apparent culture of impunity<sup>4</sup> shielding the perpetrators, has led Amnesty International to believe that the killings are not an unconnected series of criminal murders, armed robberies or other unlawful killings. Rather they constitute a pattern of politically targeted extrajudicial executions<sup>5</sup> taking place within the broader context of a continuing counter-insurgency campaign. The organisation remains gravely concerned at repeated credible reports that members of the security forces have been directly involved in the attacks, or else have tolerated, acquiesced to, or been complicit in them.

Government and military officials insist that there is no state policy which calls or allows for extrajudicial executions, that there are no secret "death squads" and no use by members of the armed forces of hired killers. They claim that most of the killings were in fact carried out by members of the armed groups themselves in the context of factional rivalries or internal "purges". The Government of the Philippines points to the comprehensive array of international human rights treaties which the Philippines has ratified and asserts that in addition provisions protecting human rights are enshrined in the Constitution and ensured through national laws and institutions, including both an independent judiciary and a Commission on Human Rights.

The international human rights treaties signed by the Philippines impose a clear duty on states to investigate alleged violations of the right to life, including political killings "promptly, thoroughly and effectively through independent and impartial bodies".<sup>6</sup> Yet the fact that the overwhelming majority of attacks remain unresolved illuminates a continuing failure by the authorities to act with due diligence in investigating and prosecuting such violations. This failure continues to have a serious, corrosive impact on public confidence in the administration of justice and the rule of law. The chairperson of the Philippine Commission on Human Rights noted that a pattern of impunity in relation to the killings is

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<sup>4</sup> 'Impunity' literally means exemption from punishment. In this context it refers to the failure of the state to redress human rights violations by bringing suspected perpetrators to justice in accordance with international human rights standards and otherwise repair the harm suffered by the victims.

<sup>5</sup> Amnesty International defines "extrajudicial executions" as unlawful and deliberate killings carried out by order of a government or with its complicity or acquiescence. Extrajudicial executions are carried out by regular military or police forces, by special units created to function without normal supervision, or by civilian agents working with government forces or with its complicity. Such government forces, units or agents are often called "death squads". This is in contrast to non-political criminal murders, or to politically motivated "unlawful killings" carried out by non-state actors, including members of armed groups, without the complicity or acquiescence of a government.

<sup>6</sup> Human Rights Committee, general comment No. 31, "Nature of the legal obligation on States Parties to the Covenant", UN Doc. CCPR/C/21/Rev.1/Add.13 (2004), para. 15.

visible, and the government has a responsibility to protect the right to life, whatever the political or other background of the victims.<sup>7</sup>

Amnesty International believes that urgent steps are needed to remedy this situation, not least because the threat of further killings has intensified due to political developments during 2006. These include President Gloria Macapagal Arroyo's declaration of a week-long State of Emergency in late February and the continuing collapse of the peace process. Prospect for revival of peace negotiations dwindled further amid intensification of counter-insurgency operations, the direct transfer of names and addresses of NDF negotiators and others listed in a former safe-conduct agreement to an arrest warrant, and an announcement in June of the release of substantial additional funds to allow the armed forces to "crush" the communist insurgency in certain areas within two years.<sup>8</sup>

During and after the Emergency, justified as a response to an alleged coup conspiracy involving an array of actors from the extreme left to the extreme right of the political spectrum, senior officials repeatedly claimed that the major threat to national security came from the CPP-NPA. They publicly linked the legal leftist political opposition directly with communist armed groups, in effect implying that there was no distinction between them. Such public labelling, in conjunction with the arrest and attempted arrest of leftist Congressional Representatives on charges of "rebellion", raised concerns that the risk of further killings of leftist activists was intensifying.<sup>9</sup>

Such concerns proved well-founded. As senior officials and military officers labelled members of the legal left "enemies of the state",<sup>10</sup> and failed to condemn the killings consistently at all levels of government, fears grew that elements within the armed forces might interpret this as a tacit signal that political killings were a legitimate part of the anti-insurgency campaign. At least 51 political killings took place in the first half of 2006, compared to the 66 killings recorded by Amnesty International in the whole of 2005.<sup>11</sup>

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<sup>7</sup> Philippine Commission on Human Rights chairperson Purificacion Quisumbing reported in Philippine Daily Inquirer (PDI), 23 May 2006: "We strongly condemn the spate of killings that have yet to be resolved and we have noted that there is a perceived pattern of the violation of the human right to life... If several deaths happened in just a week, this constitutes a pattern of impunity. In human rights terms, the government is still responsible even if persons in authority are not those behind the killings... [T]he government is still responsible in protecting the right to life". Responding to the continued killings and slow pace of investigations, "We couldn't care less what [political] colours the killers are. Is the government so helpless?"

<sup>8</sup> In an apparent policy shift, President Arroyo announced that an existing 10 year government timetable for suppressing the communist insurgency should be reduced to two years in areas of Luzon, and that one billion peso (US\$19 million) extra funds would be allocated to the military and police to contribute to this process (PDI, 18 June 2006).

<sup>9</sup> Amnesty International, Public Statement on 8 March 2006: *Philippines: Time to reassert the need for respect for human rights as State of Emergency is lifted* (ASA 35/002/2006).

<sup>10</sup> Referring to party-list leaders, Major General Jovito Palparan reportedly stated "...even though they're in government [as Congress Representatives], no matter what appearance they take, they are still enemies of the state" (PDI, 16 May 2006).

<sup>11</sup> Amnesty International Report 2006. See Appendix 4: Political killings in 2006 (January to June).

While welcoming President Arroyo's condemnation of political killings in her State of the Nation Address to Congress in July 2006,<sup>12</sup> her earlier reported instructions to cabinet officials to put an end to further killings,<sup>13</sup> and the establishment of a special police investigative task force,<sup>14</sup> Amnesty International believes further determined steps are essential. The organization calls on the Government of the Philippines to implement Amnesty International's 14-Point Program for the Prevention of Extrajudicial Executions.<sup>15</sup>

As an integral part of this Program, the authorities should urgently reiterate a clear, unequivocal message to all members of the police, military and other security forces that involvement in, or acquiescence to, such unlawful killings will never be tolerated. All such cases must be fully and promptly investigated and all those responsible, whether linked to the armed forces or not, brought to justice. Only in this manner can public confidence in the impartial and effective administration of justice be restored and a peace process, with respect for human rights by all sides at its heart, be revived.

## ***2. Historical background***

### **2.1 Armed conflict and human rights**

Armed conflict between government forces and communist insurgents, primarily the CPP-NPA, has continued for over 37 years in the Philippines. Despite democratic reforms and the introduction of legal and institutional human rights safeguards following the ouster of former President Ferdinand Marcos<sup>16</sup> in 1986, and a series of attempts during succeeding presidencies to move forward a peace process, fighting has persisted. Root causes sustaining the conflict include widespread poverty and economic inequity, poor governance including weaknesses in the administration of justice, violations of human rights and impunity.<sup>17</sup>

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<sup>12</sup> "In the harshest terms I condemn political killings. We together stopped judicial executions with the abolition of the death penalty. We urge witnesses to come forward. Together we will stop extrajudicial executions". Referring to counter-insurgency operations President Arroyo stated, "...we will end the long oppression of barangays [villages] by rebel terrorists who kill without qualms, even their own. In those regions under the supervision of the 7<sup>th</sup> [Infantry] Division, [Major General] Jovito Palparan is battling the enemy. He will not back down until the communities emerge from the night and rise towards the dawn of justice and freedom." (State of the Nation Address, 24 July 2006).

<sup>13</sup> President Arroyo reportedly instructed cabinet security committee officials to put a stop to the killings involving leftist activists and journalists and to investigate and account for them (Philippine Star, 25 May 2006).

<sup>14</sup> (ABS-CBN, 17 June 2006).

<sup>15</sup> See Appendix 1.

<sup>16</sup> Ferdinand Marcos' presidency (1965-86), notably the period of martial law (1972-84), was marked by endemic human rights violations. See: *Report of an Amnesty International Mission to the Philippines in Nov. 1975* (PUB 64/00/77, 2<sup>nd</sup> edition); *Report of an Amnesty International Mission to the Philippines in Nov. 1981* (ASA 35/25/82); and *Incommunicado detention, ill-treatment and torture during 1988* (ASA 35/40/88).

<sup>17</sup> National Unification Commission Report to President Fidel Ramos on the pursuit of a comprehensive peace process, 1993.

Within this context, the CPP-NPA as leaders of a nationwide “Maoist revolutionary movement” have pursued a strategy of “protracted people’s war” combining continuing tactical military offensives by rural guerrilla units, with building a mass political and organizational support base. In response, the Armed Forces of the Philippines (AFP) and Philippine National Police (PNP) have conducted a series of anti-insurgency operations nationwide. The conflict has been marked by human rights abuses on both sides. From the late 1980s, the AFP pursued a “Total Approach” counter-insurgency strategy, including the increased use of official militias and a toleration of unofficial ‘vigilante’ groups to “hold and consolidate” CPP-NPA-influenced areas following military clearance operations by regular AFP troops.<sup>18</sup> Implicit in the strategy was the aim of eroding the insurgency’s popular mass base by moving against members of legal organizations suspected of being “front-groups” for the CPP-NPA. Accordingly, the practice of “red-labelling”, by which perceived communist or leftist opponents of the government were tagged as ‘subversives’ became more pronounced. Once publicly labelled, such people were at sharply increased risk of grave human rights violations, including extrajudicial executions, “disappearances”, arbitrary arrest and torture.<sup>19</sup>

Meanwhile the CPP-NPA<sup>20</sup> adopted a more hard-line strategy, combining coordinated rural insurgency with assassinations of military, police and local officials in urban areas. During a series of internal “purges” in the late 1980s, the NPA were also responsible for numerous abductions, summary execution and torture of individuals suspected of being government “deep penetration agents” within their own ranks.<sup>21</sup> Extortion demands justified as “revolutionary tax” and harassment or attacks on civilians who resisted payment were also commonplace.<sup>22</sup>

In 1992, the then newly-elected government of President Fidel Ramos announced a policy of national reconciliation, and moved to revive the peace process with the NDF. The Anti-Subversion Act, which made membership of the CPP illegal, was repealed.<sup>23</sup> As

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<sup>18</sup> Paramilitary units, outside formal military command, were responsible for large-scale human rights violations under President Marcos and were banned in 1987. Immediately afterwards a national militia, comprised of Citizen Armed Forces Geographical Units’ (CAFGUs), was instituted. Although under AFP command, local CAFGUs were often badly trained and undisciplined and at times engaged in local feuds. They rapidly gained a reputation similar to the former paramilitaries as being responsible for large-scale human rights violations.

<sup>19</sup> Amnesty International report: *The Killing Goes On* (ASA 35/01/92, 1992).

<sup>20</sup> In the late 1980s, the CPP-NPA was estimated to comprise some 22,000 armed insurgents, with a presence in over 55 of the country’s 73 provinces.

<sup>21</sup> Robert Garcia Francis, *To Suffer Thy Comrades* (Anvil Publishing, 2002).

<sup>22</sup> In a July 2006 Pastoral Letter (see n.2) the Catholic Bishop’s Conference of the Philippines expressed concern at continued reports of the killing of civilians by the NPA, including within the context of NPA raids to seize weapons; in response to failures to pay “revolutionary tax”; or as an imposition of “revolutionary justice” (“blood-debt to the people”).

<sup>23</sup> Though the repeal of the Anti-Subversion Act (RA 1700) in 1992 was a significant factor in encouraging negotiations with the now legalised CPP, some senior AFP officers maintained the position, repeated in 2006, that CPP membership was tantamount to being a “co-conspirator” with the NPA and therefore a criminal act.

intermittent negotiations with the NDF continued, the CPP-NPA was significantly weakened by leadership splits and a marked decline in the number of active armed fighters.

As the scale and intensity of armed conflict diminished, the numbers of reported human right abuses also declined. However despite this national trend, fluctuating but persistent reports of “disappearances”, torture and extrajudicial executions, often occurring within ‘militarized zones’,<sup>24</sup> reinforced Amnesty International’s concerns about the continuing climate of impunity and its conclusion that existing human rights safeguards were not, in practice, robust enough to withstand immediate political or military pressures. In addition, reports of abuses by the CPP-NPA also continued including the killing of civilians in the context of demands for “revolutionary tax” and as acts of “revolutionary justice”.

## **2.2 The peace process: a human rights agreement and monitoring mechanism**

During the 1990s a series of formal and informal negotiations between the Government of the Republic of the Philippines (GRP) and the National Democratic Front (NDF)<sup>25</sup> led to agreements on the principles and framework for advancing a peace process.<sup>26</sup> In an important step forward in 1998, as the first of a four stage agenda, both sides concluded and signed a Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL).<sup>27</sup>

Through the Agreement, both sides affirmed that they would respect and apply fundamental principles and standards enshrined within international human rights law, including the right to life, the right to due process of law and the right to freedom of thought and political beliefs, and within international humanitarian law, including protection and humane treatment of civilians and combatants not participating directly in the conflict, and the prohibition on the use of child soldiers.

In the absence of a ceasefire agreement, the CARHRIHL was seen as a key instrument not only to address continuing patterns of abuses occurring within the context of

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<sup>24</sup> Areas in provinces or districts where AFP counter-insurgency operations were stepped up to counter a perceived NPA threat. Direct military ‘encounters’ (clashes) between AFP regulars and Citizen Armed Forces Geographical Units (CAFGU) and NPA guerrillas would often be accompanied by “zoning”, in which villages were surrounded and searches and arrests effected, and “saturation drives” when large numbers of troops or police would deploy together into a community, step up “intelligence-gathering” and effect mass arrests.

<sup>25</sup> The National Democratic Front, an alliance or “united front” of revolutionary groups including the CPP, the NPA and sectoral organizations (e.g. peasants, workers, women, indigenous people), represents these groups in negotiations with the government. The NDF’s chief political consultant is Jose Maria Sison, the founder of the CPP-NPA.

<sup>26</sup> The Royal Norwegian Government extended support to the peace process as third party facilitators for the negotiations.

<sup>27</sup> The CARHRIHL, as a first stage, was envisaged to lead on to further negotiations and Agreements on Social and Economic Reforms, on Political and Constitutional Reforms and finally, on the End of Hostilities and the Disposition of Forces.

the continuing conflict, but as a measure to build trust and confidence and so strengthen the momentum of the peace process. To this end and to ensure compliance by both sides, the CARHRIHL established a complaints monitoring procedure by which allegations of violations of the Agreement, after screening by separate GRP and NDF Monitoring Committees, could be assessed and verified by a Joint Monitoring Committee. This Committee would then refer its conclusions, reached by consensus, to the relevant principals for comments, investigation and appropriate remedial action.

However over succeeding years the potential of the CARHRIHL to address and reduce abuses and so help invigorate the peace process remained unrealized. The continuity of formal peace negotiations proved vulnerable. The listing of the CPP-NPA as a foreign “Terrorist Organisation” by the US and EU and other allies in 2002 proved a major political impediment to continued negotiations and to the parallel implementation of the CARHRIHL.<sup>28</sup> Other destabilising factors included the reported assassination of a number of local electoral candidates by the NPA in 2001 and, increasingly, the series of unresolved political killings of members of legal leftist parties by unidentified armed men. As a result, with formal talks suspended intermittently, the official inauguration of the CARHRIHL’s Joint Monitoring Committee was delayed until 2004.

During this period the political killings were seen as linked to significant electoral developments which were also impacting on GRP - NDF relations. In 2001, groups within the broad spectrum of the ‘militant’ left began formal participation in constitutional democratic processes by standing in Congressional elections as “progressive” parties under the party-list system.<sup>29</sup> In the elections, a leftist party, *Bayan Muna* (People First) topped the national list to get the maximum three seats allowed to an individual party-list group. In the 2004 elections the “progressive” bloc doubled its party list seats to six with the election of representatives from *Anakpawis* (Toiling Masses) and *Gabriela*, a women’s party.

However hopes that the left’s participation in democratic politics, the 2004 inauguration of the Joint Monitoring Committee, and the reaffirmation of the 1995 safe-

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<sup>28</sup> The post-9/11 (2001) US-led global “war on terror”, within which the Philippines is seen an important US regional ally, influenced the government’s anti-insurgency approach. In January 2002 a new five-year anti-insurgency plan, Operation Bantay-Laya (Freedom Watch) took effect. In August 2002 President Arroyo issued a “Nine Point Guideline on the CPP” which emphasised the “terrorist” acts of the CPP-NPA and welcomed the US terrorist listing. Following an August 2002 order for a redeployment of the AFP against the NPA, the government appeared increasingly to place military counter-insurgency operations over the peace process. This approach became explicit during and after the 2006 State of Emergency. In June 2006 President Arroyo and other officials called for “all-out war” to crush the CPP-NPA within two years.

<sup>29</sup> Under 1995 legislation a system of proportional representation was introduced whereby, in addition to voting directly for individual district representative for Congress, electors can vote for a “party-list” for which twenty percent of the 260 House of Representatives seats are reserved. Every 2% of total party-list votes cast nationally gains a seat in the House, with each party allowed a maximum of three seats.

conduct pact (the Joint Agreement on Safety and Immunity Guarantees)<sup>30</sup> would help reduce tensions proved unfounded. Formal negotiations failed to make substantive progress and the peace process faltered. While the separate GRP and NDF monitoring committees continued to receive and screen complaints of abuses,<sup>31</sup> they did not meet together as the Joint Monitoring Committee, and so were unable to promote and facilitate an appropriate course of effective remedial action by either the GRP or the CPP-NPA. Concerns over failures to address such complaints, particularly in relation to the rising number of political killings of leftist activists by allegedly military-linked gunmen but including periodic killings of civilians reportedly carried out by the NPA,<sup>32</sup> increased as the impasse in the peace process deepened.

The situation deteriorated further as disputes over the validity of President Arroyo's electoral victory in June 2004 sparked intense political controversy. In August, citing a loss of confidence in the legitimacy and durability of the Arroyo administration, the NDF announced that it was withdrawing for the time being from formal negotiations. In response the government made clear its position that it did not consider it possible to operationalize the Joint Monitoring Committee and so effectively monitor implementation of the CARHRIHL unless peace negotiations were conducted at the same time. Subsequently the government suspended the Joint Agreement on Safety and Immunity Guarantees.

### ***3. State of Emergency, arbitrary detentions, and targeting of the Left***

In late February 2006 President Arroyo declared a State of Emergency<sup>33</sup> citing a conspiracy to overthrow the government by members of the mainstream opposition in "tactical alliance" with rightists, communist rebels, progressive leftist groups and serving and former military personnel.<sup>34</sup>

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<sup>30</sup> The 1995 Joint Agreement on Safety and Immunity Guarantees was adopted, following a series of difficult GRP-NDF talks, to promote peace negotiations, create an atmosphere conducive to free discussion and free movement during such negotiations and to avert incidents that might jeopardize the peace process. The Agreement covered listed NDF negotiating panel members, consultants and other personnel involved in the peace negotiations.

<sup>31</sup> As of May 2006, 693 complaints had reportedly been filed against GRP forces and 106 complaints against NDF forces (PDI, 8 June 2006).

<sup>32</sup> *Akbayan* (Citizen's Action Party) a left-leaning party-list group separate from the CCP and its party-list political allies, complained that a number of its organizers and supporters were killed or threatened with assassination by the NPA in various provinces between 2003-5, reportedly in the context of electoral rivalries and local land disputes.

<sup>33</sup> Under Article 7(18) the Philippine Constitution (1987), the President is authorised to declare a state of national emergency and command the army "to prevent or suppress lawless violence, invasion or rebellion." The State of Emergency was lifted after a week as the authorities announced that the reported coup threat had eased. However officials warned that the emergency would be re-imposed if considered necessary and concerns over continued restrictions on the rights of expression and peaceful assembly remained.

<sup>34</sup> *Philippine Star*, 25 February 2006; PDI, 28 February 2006.

Under the powers stemming from the State of Emergency, the President ordered the armed forces to “prevent and suppress all forms of lawless violence”.<sup>35</sup> Police enforced a ban on public assemblies and, following a raid on a newspaper office, police threatened media outlets who failed to respect guidelines related to “responsible” reporting that they faced being shut down.<sup>36</sup>

The authorities arrested or threatened to arrest scores of suspects from across the political spectrum accused of “rebellion” or involvement in the reported coup conspiracy.<sup>37</sup> At least 25 AFP members were detained by the military authorities on suspicion of having planned to attempt to force President Arroyo’s resignation by publicly announcing a “withdrawal” of support from the President during expected mass public demonstrations. Other officers were accused of having conspired with the CPP-NPA members to cooperate in the alleged coup attempt.

However, the primary target of government action appeared to be the CPP-NPA and the progressive leftist parties, which were now explicitly accused by senior government officials of being front organizations for illegal communist armed groups.<sup>38</sup> On 28 February 2006 police lodged a “rebellion” complaint with prosecutors against some 50 prominent figures from across the spectrum of the left, including NDF-CPP leaders in exile, leaders of the leftist party-list groups and others.<sup>39</sup>

In a serious blow to prospects for reviving confidence in the peace process, the list of those accused of rebellion was substantially comprised of persons previously listed in the Joint Agreement on Safety and Immunity Guarantees, and the address of most of the suspects was cited as the Secretariat of the Joint Monitoring Committee of the CARHRIHL.<sup>40</sup>

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<sup>35</sup> Proclamation 1017, Proclamation Declaring a State of National Emergency, 24 February 2006.

<sup>36</sup> In May 2006 the Supreme Court ruled on a petition challenging the constitutionality of the President’s declaration of a State of Emergency. The Court found that while the declaration was constitutional in that it called on the AFP to prevent and suppress lawless violence, specific provisions of the declaration that ordered the AFP to enforce laws not related to lawless violence (such as those affecting media freedoms and peaceful assembly) were unconstitutional.

<sup>37</sup> At least sixteen opposition figures, including six leftist Congress Representatives, were charged with rebellion during March 2006. Among those charged was a right-wing former army colonel and senator, Gregorio “Gringo” Honasan, who had been involved in a series of coup attempts since 1986.

<sup>38</sup> AFP briefing presentation, *Knowing the Enemy: Are we missing the point?* (2005). The briefing listed non-governmental organizations (NGOs) infiltrated or targeted for infiltration by the CPP-NPA, including the Social Action Centres of the Catholic Bishops Conference of the Philippines and the National Union of Journalists. In response to criticism senior officials reportedly stated subsequently that the briefing had not been authorised, and did not reflect official AFP policy.

<sup>39</sup> The list also contained at least seven rightist leaders and former or serving soldiers suspected of planning a coup attempt with leftists. It also listed unnamed suspects as “Jane and John Does” raising concerns that complaint may be used to justify the arrests of an unspecified number of potential suspects, as yet unidentified by the police.

<sup>40</sup> The Secretariat serves the Joint Monitoring Committee, which comprises both the government and NDF monitoring committees. The secretariat is funded by the Royal Norwegian Government as part of their role as third party facilitators of the peace negotiations.

Over subsequent months it appeared increasingly clear that the authorities had decided to abandon the series of peace negotiations conducted previously with the NDF.<sup>41</sup> Rebellion charges were pursued against prominent leftists formerly granted safe conduct to participate in negotiations and the view, long held by some military and government officials, that membership of the CPP was tantamount to being a “co-conspirator” with the NPA and therefore a criminal act, appeared to gain renewed strength.<sup>42</sup> In May, Major General Jovito Palparan, describing the 1992 repeal of the Anti-Subversion Act as a mistake, called for the re-introduction of legislation that would criminalize membership of the CPP and sympathetic organizations.<sup>43</sup> In June, President Arroyo and other government officials publicly reiterated a policy of “all-out war” to “crush” the CPP-NPA within ten years,<sup>44</sup> and an opposition Senator who visited the exiled NDF leadership in the Netherlands to explore way of reviving the peace process was accused of “treason”.<sup>45</sup>

Political commentators expressed concern that the government risked instigating an “anti-communist witch-hunt”, and that the policy of intensified military counter-insurgency operations was less a legitimate response to an immediate, pressing national security threat posed by the CPP-NPA, than an attempt for political reasons to consolidate support within elements of the military and to counter the potential for future electoral success on the part of leftist party-list groups.<sup>46</sup> In addition, at the same time as orders went out to escalate military counter-insurgency operations, renewed official assertions that the continuing killings of leftist activists were in fact the result of internal communist “purges”<sup>47</sup> increased fears that

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<sup>41</sup> Government officials reportedly reiterated that formal peace negotiations with the NDF could not be resumed without a ceasefire agreement, but that informal talks with CPP-NPA leaders at the local level was possible (PDI, 5 July 2006).

<sup>42</sup> See n.23.

<sup>43</sup> “Make communism illegal again” (PDI, 21 May 2006); “I want communism totally erased” (Philippine Star, 21 May 2006).

<sup>44</sup> See n.8.

<sup>45</sup> Justice Secretary Raul Gonzalez accused Senator Maria Ana Consuelo Madrigal of “treason” and warned she could be prosecuted for holding unauthorized talks with NDF leaders in Utrecht, Netherlands (PDI, 5 July 2006).

<sup>46</sup> Amando Doronila, “Killings show military influence in Arroyo administration rising” (PDI, 29 May 2006); “Analysis: Licence to murder” (PDI, 2 June 2006).

<sup>47</sup> In the late 1980s escalating fears within the CPP-NPA about infiltration by government “deep penetration agents” sparked a series of severe internal “purges”. Widespread human rights abuses, including torture and killings, reportedly led to the deaths of several thousand CPP-NPA members or sympathizers. Mass graves were subsequently discovered in Luzon, Mindanao and elsewhere (See n.21). CPP-NPA founder Jose Maria Sison, who in the early 1990s criticized the excesses of the purge and initiated a political “rectification” campaign within the communist movement, in 2006 rejected government claims that a similar purge was behind the recent political killings. Commentators noted that the purge of the 1980s, characterised by CPP-NPA “interrogations”, “people’s courts” and subsequent “executions”, appeared different from the current pattern of targeted assassinations by unidentified gunmen on motorcycles. However, the CPP-NPA reportedly admitted responsibility for the “execution” of former NPA chief Romulo Kintanar in 2003 for “criminal and counter revolutionary acts”; (See Amnesty International statement, *Respect Human Rights!* ASA/35/004/2003, January

police investigations into the killings were less likely to be sufficiently prompt, determined or thorough, and that there was an increased risk that those responsible for the killings would believe that they had received a signal of official acquiescence for these abuses.

Amnesty International is gravely concerned that the patterns of political killings, “disappearances” and other human rights violations that contributed to the undermining of the peace process over recent years will now worsen. In July, to counter government anti-insurgency operations the leadership of the CPP-NPA called for an intensification of guerrilla warfare, including tactical and punitive operations, with the creation of special units to attack and exact “revolutionary justice” on the “masterminds and operatives” believed responsible for the political killings.<sup>48</sup>

With the political will necessary to revive peace negotiations currently appearing absent, the organization believes it essential that all sides urgently reassert respect for human rights in order to prevent the serious threat of a renewed spiral of human rights abuses.

### 3.1 Arbitrary detentions and the threat of politically motivated charges

Events during and since the State of Emergency have also raised concerns over political motivations behind reportedly selective arrests and launch of criminal proceedings, particularly against leftist suspects. The nature of the charges and the manner in which they have been brought forward have intensified continuing concerns that these arrests constituted arbitrary detentions based on a deliberate invocation of unfounded allegations, and signalled an erosion of the right of suspects to due process and a fair trial.

The arrest and detention of *Anakpawis* Congressman Crispin Beltran highlighted these concerns. He was reportedly surrounded by armed police on 25 February 2006 as he left his home outside Manila, he was “invited for questioning” and brought to PNP headquarters at Camp Crame in the capital. He was later informed that he was being held in connection with a 1985 warrant of arrest issued 21 years earlier under then President Ferdinand Marcos, for alleged “rebellion”.<sup>49</sup> His lawyers challenged the validity of this warrant, asserting that it had been legally quashed in 1988. A second charge was then brought forward accusing him of

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2003). Two other former senior communist leaders, Filemon Lagman and Arturo Tabaro, who like Kintanar were seen as part of the “rejectionist” faction which split from the Sison-led “reaffirmist” faction in the early 1990s, were also killed by unidentified gunmen in 2001 and 2004 respectively reportedly as acts of “revolutionary justice”.

<sup>48</sup> *Major Points in the tit for tat struggle against the US-directed war of terror*, Ang Bayan, 29 July 2006. The CPP also continued to call for a resumption of peace negotiations and implementation of the CARHRIHL and other agreements. [www.philippinerevolution.net](http://www.philippinerevolution.net)

<sup>49</sup> Under Art. 134 of the Revised Penal Code (1930): “The crime of rebellion or insurrection is committed by rising publicly and taking arms against the Government... or depriving the Chief Executive or the Legislature, wholly or partially, of any of their powers or prerogatives”. Art.136 criminalizes “[c]onspiracy and proposal to commit coup d’etat, rebellion or insurrection”.

“incitement to sedition”<sup>50</sup> for statements he allegedly made at an earlier mass “people’s power” rally attended by a range of prominent politicians in which calls were made for President Arroyo’s resignation and ouster.<sup>51</sup> Crispin Beltran asserted that he had not in fact spoken publicly at the rally, that there was video evidence to prove this, and that even if he had spoken at such an event Congressional immunity would apply in relation to such a charge.<sup>52</sup> Subsequently, his continued detention was justified by reported police investigations into a further rebellion charge related to the recent alleged coup conspiracy with right wing elements to overthrow President Arroyo.

The police also sought to arrest on suspicion of “rebellion” five other leftist Congress Representatives, including Satur Ocampo, Teodoro Casino and Joel Virador of *Bayan Muna*, Liza Maza of *Gabriela* and Rafael Mariano of *Anakpawis*. The five appealed to the House of Representatives to grant them “protective custody” as members of the legislature and so shield them from immediate arrest without a court warrant. This request was granted while they remained within the Congressional compound. The five agreed to participate in preliminary investigation proceedings – standard for the investigation of alleged offences excepting those, including rebellion, which allow for arrests without warrants. Such proceedings led to a ruling by Department of Justice public prosecutors as to whether there is a basis for charges to be referred to a court where a decision would be made as to whether or not there is sufficient evidence to issue an arrest warrant.<sup>53</sup>

The five Representatives remained within the Congressional compound for over two months. Preliminary investigation proceedings continued until May, when a court ruled on a technicality that the existing charges should be dismissed. However soon afterwards the Department of Justice filed further rebellion charges against the five Representatives and 49 other suspects and therefore all remain under continuing threat of arrest.

Amnesty International remains concerned that during and since the State of Emergency, the arrest or threatened arrest of scores of mainly leftist suspects have exposed weaknesses in Philippines laws and procedures safeguarding against arbitrary arrest and detention.

The general rule under Philippine law that a person should be detained by police only after a court has assessed the basis of the alleged offence and issued a warrant of arrest, can be circumvented by provisions allowing for police to conduct an arrest without court warrant. These include when a crime is being committed in the presence of a police officer, or has just been committed,<sup>54</sup> and in the case of charges of rebellion.

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<sup>50</sup> Art. 142 of Revised Penal Code.

<sup>51</sup> A number of mass rallies had been planned on 24 February 2006 to commemorate the 20<sup>th</sup> anniversary of the original “People’s Power” demonstrations that led to the ouster of President Marcos in 1986.

<sup>52</sup> Under the Constitution, members of Congress are immune from arrest when the legislature is in session if the alleged crime is punishable by six years imprisonment or less.

<sup>53</sup> See Appendix 2: Legal protections.

<sup>54</sup> See Appendix 2: Lawful arrest without a warrant.

Amnesty International has documented numerous cases where police have deliberately misused arrest without warrant provisions, not least to avoid the scrutiny of the courts at a time when police investigations will only begin in earnest when the suspect is held in custody and can be interrogated.<sup>55</sup> In addition, the organization has expressed alarm that the subsequent summary Inquest Procedures<sup>56</sup> in place to safeguard the rights of those arrested without a warrant, often fail to maintain sufficient impartiality in assessing the lawfulness of the arrest and whether charges should be filed, and are ineffective in protecting detainees from torture and ill-treatment by police during protracted periods of custodial investigation.

In this context, the organization has particular concerns about the recent marked increase in the application of the charge of rebellion, designated a “continuing crime” in Philippine jurisprudence.<sup>57</sup> This designation allows for a police officer to arrest a suspect without a court warrant, in the same manner as officer is empowered to conduct warrantless arrest when, for example, a robbery or theft is in progress within his or her sight. A person suspected by police of rebellion, which may allegedly have happened years before, can be arrested at any time - without a court first assessing whether a *prima facie* case exists. Amnesty International is concerned that, in light of the government’s current political and military efforts against the CPP-NPA and its alleged supporters among legal leftist parties, such rebellion charges are open to misuse as a pretext to affect politically-motivated detentions.

The suspect, arrested without a warrant and subjected to summary inquest proceedings that may not be sufficiently impartial, faces the prospect of being subjected to a prolonged deprivation of liberty before the basis of allegations put forward by the police can be fully and independently scrutinised by the courts. Those arrested in this manner are at risk of periods of police custody during which safeguards against torture or ill-treatment have previously proven weak. In addition, prohibitive bail provisions means that, in practice, many of those arrested on suspicion of rebellion face months or years of incarceration before their guilt or innocence can be established.<sup>58</sup>

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<sup>55</sup> Amnesty International report: *Philippines: Torture persists: appearance and reality within the criminal justice system* (ASA 35/0012/2003, January 2003).

<sup>56</sup> See Appendix 2: The inquest procedure.

<sup>57</sup> Constitutional rights in respect to the conduct of arrests in the broad context of the armed conflict have been interpreted restrictedly in a number of Supreme Court cases, particularly *Umil v. Ramos* (202 SCRA 251) in 1991. In this case, the Court ruled that subversion or rebellion could be seen as a ‘continuing offence’, thus a warrantless arrest might be lawful even if the suspect was not actively doing anything subversive or rebellious at that instance.

<sup>58</sup> The charge of being a “leader” of a rebellion is considered a non-bailable offence, with those charged with participating as “members” of a rebellion required to provide a 200,000 peso (US\$3,800) bail bond, which is beyond the means of most ordinary Filipinos.



Activist Irma 'Kathy' Alcantara had organized a meeting on women's rights one week before she was killed.

©KPD

### Case Study: Irma "Kathy" Alcantara

Irma "Kathy" Alcantara, aged 44 years, was killed around 10:00 in the morning on 5 December 2005. A Regional Coordinator and Bataan provincial Secretary General of KPD (*Kilusan para sa Pambansang Demokrasya* or Movement for National Democracy),<sup>59</sup> she was shot near a resort hotel where she was participating in province-wide farmers and fisher folk conference, in Barangay Gabon, Abucay district, Bataan province, Luzon.

According to witness statements gathered by human rights groups including Task Force Detainees of the Philippines and KPD members, after Kathy had just left the resort having checked the kitchen arrangements for the conference, two unidentified armed men on motorcycles opened fire with a .45 calibre pistol and three bullets passed through her neck and right breast. Before the attack, witnesses reported seeing single motorcycles pass several times by the resort and another single motorcycle with two or three unidentified men, parked in front at around 6:30 am. Kathy was taken to the Bataan Provincial Hospital by a nearby hardware store owner, but died before arrival. She was survived by her husband, a farmers' community organizer, and their two children.

Kathy was as veteran community organizer. A Basic Christian Community Organiser in Luzon in the late 1970s, she was politically active in Bataan province since the 1980s, campaigning successfully against the Bataan Nuclear Power Plant during the Marcos presidency and involved in the Central Luzon Alliance for a Sovereign Philippines.<sup>60</sup> As KPD regional coordinator, she had helped organise a number of community mobilisations in relation to socio-economic and political issues.

KPD members at the conference reported that prior to her death Kathy had received death threats and was under surveillance by suspected military or police personnel. A KPD member stated that Kathy had shown him a cell-phone text message from colleagues in Zambales stating that they had been prevented for joining a rally by police who then asked if they knew Kathy. He recalled that his co-workers had agreed never to identify her as a number of unknown persons visited KPD offices asking for her and an increased number of unknown persons, some whom they suspected as posing as vendors, appeared to be conducting surveillance in the area.

During the day of the incident, a participant of the conference reportedly saw a silver motorcycle and three men standing only 50 meters away from the resort's gate. Other witnesses described seeing a white vehicle with three men aboard and a passenger allegedly wearing a white shirt with the letters "PMA" (believed to stand for Philippine Military Academy). The conference participants described how, after the shots were heard, police arrived quickly at the scene but appeared to focus on questioning the participants rather than setting up check-points or pursuing the attackers. Some, in civilian clothes, reportedly entered the conference room, ordered the participants not to leave and prevented them from going outside to attend to Kathy and see what was happening. Other witnesses recalled that three other patrols, with 30 fully-armed police personnel between them, arrived after 30 minutes. Some were recognised as coming from the PNP Abucay station. Kathy's body was taken to a morgue and later released for burial, reportedly without an autopsy. Following initial police questioning at the scene, no information on further police investigations was made known to Kathy's friends and relatives. Shortly after the attack a local radio station announced that the killing was allegedly conducted by the NPA. The case remains unresolved.

<sup>59</sup> *Kilusan para sa Pambansang Demokrasya* (KPD - Movement for National Democracy) is a leftist umbrella group campaigning for political and democratic rights and sectoral social justice issues. This legal national alliance split with other groups from the National Democrats political alliance that includes the CPP, BAYAN and other leftist organizations. The KPD is referred to as part of the "rejectionist" leftist factional grouping, in contrast to the latter grouping referred to as "reaffirmist" of the political and ideological program supported by CPP-NPA founder Jose Maria Sison.

<sup>60</sup> An organization that called for the closure of US military bases in the Philippines.

#### ***4. The duty to protect the right to life***

The right to life is a key human right. It is enshrined in Article 3 of the Universal Declaration of Human Rights and provided for in Article 6 of the International Covenant on Civil and Political Rights (ICCPR), to which the Philippines is a state party. Article 6(1) of the ICCPR provides:

*‘Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.’*

The prohibition on arbitrary deprivation of life is non-derogable, which means that states cannot kill at will even in times of emergency.

The UN has developed more detailed and specific standards which, while not legally binding per se, nevertheless represent global agreement by states on how to best implement international human rights treaties, through legislation, regulation and during law enforcement operations. These include the United Nations Code of Conduct for Law Enforcement Officials (1979; 61) the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990; 62) and the United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (1989; 63) The UN Basic Principles has 26 different rules setting out specific rights and obligations of police and other law enforcers, including an obligation to use firearms only as a last resort when there is an imminent threat to life.

In addition, states have an obligation to exercise due diligence to prevent arbitrary killing, both by officials and by non-state actors. In its General Comment on Article 2 of the ICCPR, the Human Rights Committee has emphasised that:

*‘The Covenant cannot be viewed as a substitute for domestic criminal or civil law. However the positive obligations on States Parties to ensure Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights in so far as they are amenable to application between private persons or entities. There may be circumstances in which a failure to ensure Covenant rights as required by Article 2 would give rise to violations by States Parties of those rights, as a result of States Parties’ permitting or failing to take appropriate measures or to exercise due*

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<sup>61</sup> United Nations General Assembly, *Code of Conduct for Law Enforcement Officials*, adopted by Resolution 34/169 of 17 December 1979.

<sup>62</sup> United Nations Economic and Social Council, *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, adopted by the 8th United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August – 7 September 1990.

<sup>63</sup> United Nations Economic and Social Council, *Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions*, recommended in Resolution 1989/65 of 24 May 1989.

*diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities*.<sup>64</sup>

In the case of political killings in the Philippines, regardless of the identity of the victims or perpetrators, the government must take all necessary steps, be they legal, administrative or practical, to prevent such killings, investigate each of these killings thoroughly and impartially, bring to justice those responsible for the killings and ensure reparations for the victims' families, according to international standards.<sup>65</sup>

### **5. Political killings: an intensifying pattern**

Between the late 1980s and 2000-1, as the scale and intensity of the NPA's insurgency declined gradually,<sup>66</sup> the number of alleged NPA rebels killed in direct armed clashes or "encounters"<sup>67</sup> similarly decreased. However over the last six years this trend appeared to alter.<sup>68</sup> In addition, especially since 2003, the number of fatal attacks by unidentified armed men on members of legal leftist political organisations accused by the government of being "front" organizations of the CPP-NPA, including *Bayan Muna*, *Anakpawis*, *Bagong Alyansang Makabayan* (BAYAN - New Patriotic Alliance) and others, has undergone a marked increase.

Amnesty International believes that these successive killings are marked by common features. These include the political affiliations of the victims; the methodology of attacks; an apparent climate of impunity which, in practice, has shielded those responsible from prosecution; and repeated reports that military or other state agents have been directly involved in the attacks, or else have acquiesced or been complicit in them.

<sup>64</sup> Human Rights Committee, General Comment No. 31 on Article 2 of the Covenant: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/74/CRP.4/Rev.6, 21 April 2004, para. 8.

<sup>65</sup> *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, UN Doc. E/CN.4/2005/59, Annex I, 21 December 2004.

<sup>66</sup> Estimates of total numbers of NPA fighters have fallen from around 20,000 nationwide in the late 1980's to around 7,000 in 2006. However the NPA continues "tactical" military offensives, including targeting isolated AFP and police detachments - particularly to seize arms - and ambushes or landmine attacks. Officials also state that the 2002 listing of the CPP-NPA as a foreign "Terrorist Group" has restricted the CPP-NPA's international fund-raising capacity, leading to an increase within the Philippines of "revolutionary tax" or extortion demands made against corporations and individuals. Such demands continue to be "enforced" by the NPA through armed attacks, including on cellular telephone transmission stations.

<sup>67</sup> The term often used by officials and the media to describe armed confrontations or clashes between the armed forces and insurgents.

<sup>68</sup> Combatants killed in armed encounters 1986-2004 (by presidency): President Corazon Aquino (1986-92) AFP-735, NPA - 828; President Fidel Ramos (1992- 98) AFP-2, NPA- 2; President Joseph Estrada (1999-2001) AFP -130, NPA-90; and President Gloria Arroyo (2001- present) AFP- 494, NPA-484. Philippine Human Development Report 2005, Human Development Network, p. 4.

The organization believes that the pattern of killings, sustained over at least the past five years, amount to far more than the rise and fall of a normal crime rate cycle as suggested by some police officers.<sup>69</sup>

## 5.1 The number of political killings

While a range of sources, including journalists, human rights workers and lawyers, list at least 244 killings of members of party-list groups and other leftist activists in the period from when President Arroyo took office in 2001 until July 2006,<sup>70</sup> the exact scale of killings and true nature of each incident remains difficult to determine.

In many cases there have been no conclusive findings as to whether a particular killing was a politically motivated assassination, resulted from an unlawful attack on civilians by security personnel during operations against armed insurgents, or was a ordinary criminal offence unrelated to politics. Disputes over the identity and motivations of the perpetrators have continued, with government officials claiming that a proportion of the attacks are related to factional disputes within the communist movement, are a result of local political or electoral feuds, or stem from personal or business disputes.

However, according to documentation compiled by the human rights group *Karapatan*,<sup>71</sup> which works with mass-based grassroots people's organizations nationwide, at least 80 members of progressive leftist parties were killed during 2005 alone. These include leaders (i.e. regional or provincial organizers), members or supporters of *Bayan Muna* (28 killed), of *Anakpawis* (14 killed) and of other groups.<sup>72</sup>

Initial investigations conducted and compiled by the Philippine Commission on Human Rights by March 2006 found that in their estimation at least 42 of 143 complaints of murder and summary executions lodged with the Commission since 2005 by cause-orientated

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<sup>69</sup> PNP spokesperson Samuel Pagdilao (PDI, 25 May 05).

<sup>70</sup> PDI, 4 August 2006.

<sup>71</sup> *Karapatan* (Alliance for the Advancement of People's Rights) is an alliance of human rights advocates. Seen as within the broad array of left-leaning cause-orientated groups, it focuses on exposing and documenting human rights violations committed by government forces in the context of counter-insurgency operations, including killings and torture, and calls for the release of all political prisoners.

<sup>72</sup> *Karapatan: 2005 Human Rights Report*. In addition, *Bayan Muna* reported at least 16 killings of its members in 2004; 36 in 2005 and 26 from the beginning of 2006 until 5 July. The National Lawyers Guild reported at least 25 lawyers, including 10 judges, were killed since 2001 (Public statement: *The National Lawyers Guild condemns the killings of members of the legal profession in the Philippines*, 2 August 2006). The Promotion of Church People's Response, reported at least 21 clergy and lay church workers were killed since 2001. The Center for Trade Union and Human Rights documented at least 31 union leaders, union and party list organizers and supporters were killed in 2005 (*The Year of Living Dangerously: Trade Union and Human Rights 2005 Report*; Center for Trade Union and Human Rights); and the International Federation of Journalists (IFJ) reported at least 44 journalists were killed since 2001. (IFJ Media Release, 20 June 2006).

groups including *Karapatan*, *Bayan Muna* and *Anakpawis* were politically motivated, and that at least seven had been directly attributed to the military through witness statements.<sup>73</sup>

The human rights documentation group Task Force Detainees of the Philippines received at least 90 reports of extrajudicial executions in 2005, but was able to investigate only a limited number, obtaining affidavits or other corroborating documentation related to at least 12 political killings during the year.

In May 2006, as political controversy over the political killings mounted, the Philippine National Police (PNP) announced that at least 122 killings of leftist activists had taken place since 2001. Of these 122 killings recorded by the PNP, 93 were reported by the police to be members of *Bayan Muna*, 23 of *Anakpawis* and four of *Gabriela*. As a response the PNP declared the formation, with the Department of Interior and Local Government (DILG), of a special unit, Task Force Usig, to manage and coordinate police groups assigned to investigate these cases.<sup>74</sup>

The PNP also stated that 18 cases had been filed in court in relation to the attacks, while acknowledging that 85 per cent of the 122 killings remained “under investigation”. The police stated that soldiers or paramilitaries were suspects in 25 of the reported cases, while a “purge”<sup>75</sup> or factional violence within the communist movement itself was believed the cause of 13 other of the killings. Though the PNP announcement of May 2006 confirmed that soldiers or paramilitaries were suspects in at least 25 cases, the AFP continue to deny that its

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<sup>73</sup> The PCHR stated that these findings were preliminary as most cases were still under investigation, and that most perpetrators remained unidentified due to the “complete absence of leads” and the inability of witnesses to identify the gunmen.

<sup>74</sup> The establishment of Task Force Usig (“usig” meaning to inquire or interrogate) by the DILG and PNP was reported to include the creation of a database containing the profile of the victims and the suspects, intelligence summaries and forensic material (ABS-CBN, 17 June 2006). Commentators expressed concern that the Task Force, as part of the police, was not sufficiently independent of the alleged security forces perpetrators, and that the terms of reference were inadequate in that they reportedly focused on the alleged involvement of the military and police personnel with death squads, and on investigating official claims that CPP-NPA members were in fact responsible for the killings as part of internal purges (PDI, 2 June 2006). An announcement in July that joint AFP and PNP operations against insurgents would be stepped up also raised concerns in relation to ensuring the independence and impartiality of police investigations of political killings of leftist activists.

<sup>75</sup> In the late 1980s escalating fears within the CPP-NPA about infiltration by government “deep penetration agents” sparked a series of severe internal “purges”. Widespread human rights abuses, including torture and killings, reportedly led to the deaths of several thousand CPP-NPA members or sympathizers. Mass graves were subsequently discovered in Luzon, Mindanao and elsewhere (See n.21). Exiled CPP-NPA founder Jose Maria Sison, who in the early 1990s criticized the excesses of the purge and initiated a political “rectification” campaign within the communist movement, in 2006 rejected government claims that a similar purge was behind the recent political killings. Commentators noted that the purge of the 1980s, characterised by CPP-NPA “interrogations”, “people’s courts” and subsequent “executions”, was markedly different from the current pattern of assassinations by unidentified gunmen on motorcycles. However the CPP-NPA reportedly admitted responsibility for the “execution” of former NPA chief Romulo Kintanar in 2003 for “criminal and counter revolutionary acts” and periodic alleged NPA killings of “rival” leftists have been reported. See also n.32.

personnel are responsible for the killings, or have organised or colluded with non-state gunmen (including former insurgents now reportedly acting as military “assets”) to carry out the attacks.

In June the Secretary of the Interior and Local Government stated that of 114 party list members killed since 2001, suspects were arrested in just three cases and with no convictions reported.<sup>76</sup>



Markus “Makoy” Bangit was an indigenous peoples activist and a provincial leader of *Bayan Muna*, a leftist political party.

© Cordillera Peoples Alliance

### Case Study: Rafael Markus Bangit

Rafael Markus “Makoy” Bangit, aged 45 and married with four children, was shot and killed on 8 June 2006 around 7.00 in the evening in San Isidro, Echague, Isabela province (Northern Luzon). He had been travelling with his son by bus from his home in Tabuk, Kalinga province, to Baguio City where he worked.

Two unidentified gunman wearing black “bonnet” face-masks approached and shot Markus Bangit as he was about to re-board the bus after it stopped at a roadside restaurant to allow passengers to take dinner. An initial police incident report stated that the gunman opened fire at Markus with a .45 calibre pistol and then continued to fire successive shots as he lay on the ground. He died from four gunshot wounds to his chest and stomach.

Another passenger, Dr Gloria Tasuga PhD, Principal of the Quezon National High School, Isabela province, screamed and called for help on witnessing the attack and was shot several times. She died immediately. Markus Bangit’s son was physically unharmed. Police later recovered seven .45 calibre shell cases and one slug from the scene, and ascertained from witnesses that the van used by the assailants had been following the bus for some time.

Markus Bangit was a leader of the Malbong tribe in Kalinga province and became a *padang* (peace-pact holder) building and representing traditional peace and friendship agreements between his and other indigenous communities. A long-time indigenous peoples activist, he played a prominent role in opposing the Chico Dam Project in the 1970s and later became Coordinator of the Elders Desk of the Cordillera Peoples Alliance, a chapter of *Bagong Alyansang Makabayan* (BAYAN). A former barangay councillor, he was also Vice-Chair of the Kalinga provincial chapter of *Bayan Muna*.

According to colleagues at the Cordillera Peoples Alliance – who in March had complained to the local police that their offices in Baguio were under intensive surveillance by unidentified men - Markus Bangit mentioned that he thought he was being watched and had been followed while he was shopping in Tabuk with his family. In June police submitted the recovered shell cases and slug for forensic examination, but reportedly no findings of the initial police investigations had been released by late July 2006.

## 5.2 Communist “fronts”: the resurgence of “red-labelling”

Human rights violations against suspected “sympathisers” of the CPP-NPA have long been a feature of anti-insurgency operations in the Philippines. From the 1970’s to the early 1990’s the practice of “red-labelling”, the public labelling of leftist critics of the government as

<sup>76</sup> The Secretary also stated that out of the 114 cases, 27 have been filed in court and the remaining 86 are still under investigation. *From Facts to Action, Report on the attacks against Filipino Lawyers and Judges, International Fact Finding Mission*, Dutch Lawyers for Lawyers Foundation, July 2006. However, in late July 2006, Task Force Usig updated its May figures and was reported to have collated 127 cases of political killings since 2001, of which investigations had not been completed in 80 cases, with reportedly only one case resulting in a conviction (Asian Human Rights Commission, 31 July, 2006).

“subversives” or members of communist “front organizations”, was seen by Amnesty International, Task Force Detainees of the Philippines and other human rights groups as directly linked to the high levels of extrajudicial executions, “disappearances”, arbitrary arrests and torture of members of legal political groups and non-governmental organizations.<sup>77</sup> Peasants, trade unionists, church, social and human rights activists were portrayed in this manner as “legitimate” targets within the broader counter-insurgency campaign. Many were also placed, without opportunity for rebuttal, on AFP “Orders of Battle” (lists of people wanted by the security forces for alleged subversion) and, often receiving death threats from AFP and police personnel, paramilitaries or unofficial vigilante groups, were at particular risk of serious human rights violations.

Concern over a resurgence of such labelling – and an apparent link to a parallel rise in the number of political killings – has increased during President Arroyo’s administration as provincial military commanders made public statements linking legal leftist parties directly with the CPP-NPA. One of the most prominent among these commanders remains Major General Jovito Palparan. In a television interview in August 2002 then Colonel Palparan labelled *Bayan Muna* an “NPA front”. He also publicly accused *Karapatan* and the women’s organization, *Gabriela*, of being “NPA recruiters”.<sup>78</sup>

Similarly in September 2002, an army commander in Cebu denied *Karapatan* human rights workers permission to visit a man detained on suspicion of being an NPA rebel. The commander is reported to have said, “There is the possibility that we will shoot them (*Karapatan* members), depending on their action, because they are our enemies”. In a separate radio interview, he is also reported to have described *Karapatan* as “an enemy which hasn’t done anything but support the NPA and find ways of destroying the government”.<sup>79</sup>

The perception that a group of officers within the AFP recognised no distinction between the NPA and legal leftist parties, and rejected the legitimacy of leftist progressive groups’ participation in democratic political processes, was also reflected in the circulation in 2005 of AFP treatises on the CPP-NPA “revolutionary struggle” and what the AFP regarded as necessary resultant counter-insurgency strategies. The treatises outlined the “complementary, interrelated and interactive” nature of the armed, the legal community and parliamentary struggles<sup>80</sup>, and described the targeted infiltration and the CPP-NPA “capture” of particular sectoral communities (including peasants, urban poor and indigenous people) to exploit pressing social issues such as land reform and the impact of mining and other controversial development projects. Referring also to alleged penetration of local government units by party-list groups and the manipulation of government local development programs, the treatises listed alleged “front” non-government organizations (NGOs) and called for a

<sup>77</sup> See n.16 and n.19.

<sup>78</sup> Subsequently the Philippine Commission on Human Rights conducted an inquiry into complaints that then Colonel Palparan was linked to the abduction and killing of Eden Marcellena, regional secretary general of the human rights group *Karapatan*, and Eddie Gumanoy, chair of a peasants’ organization, in Oriental Mindoro in April 2003 (See Appendix 3: Additional case studies).

<sup>79</sup> Sun Star Cebu, 3 September 2002.

<sup>80</sup> *Trinity of War – Book III: The Grand Design of the CPP/NPA/NDF*, Northern Luzon Command, AFP, 2005.

coordinated AFP campaign to “neutralize” CPP-NPA programs within vulnerable sectors and communities.<sup>81</sup>

Major General Palparan in particular emerged as the focus of accusations by leftist groups that the military was responsible for sharply increased numbers of killings of leftist activists in regions where he was given command, including Samar and, currently, Central Luzon. In February 2006, Major General Palparan publicly reiterated that the government must confront the insurgency at all levels, reducing their support systems, including NGO’s infiltrated or controlled by the CPP that provide the “materials, the shelter” for the NPA. He also described the congressional party-list members as directing or “providing the day-to-day policies of the [rebel] movement”. He warned of necessary and tolerable “collateral damage” in the anti-insurgency campaign, and, referring to vigilante killings by anti-communist elements outside the AFP, stated that the military “alone” should not be blamed.<sup>82</sup> Subsequently, labelling leftist party-list leaders as “enemies of the state”, he also called for reinstatement of the Anti-Subversion Act to again make membership of the CPP a criminal offence.<sup>83</sup>

Though reassured by President Arroyo’s public condemnation of political killings in July 2006,<sup>84</sup> the absence of consistent denunciation, at all levels of government, of any form of official involvement in political killings contributed to persistent concerns that such counter-insurgency strategies would consolidate, in practice, into an implicit policy of toleration of such political killings. Such concerns had deepened as senior government officials, including prominent members of the Cabinet Oversight Committee on Internal Security (COC-IS),<sup>85</sup> publicly endorsed such counter-insurgency strategies, and in addition, robustly defended the arrest or threatened arrest of party-list Congressional representatives for rebellion. In March 2006 National Security Adviser Noberto Gonzales declared that the

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<sup>81</sup> See n.38.

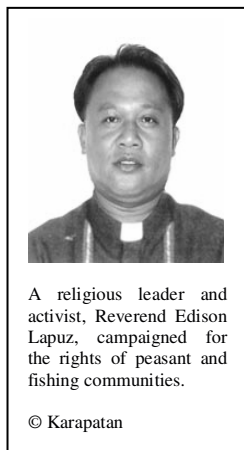
<sup>82</sup> “It is my belief that these members of party lists in Congress are providing the day-to-day policies of the (rebel) movement.” Describing an effective counter-insurgency campaign, Major General Palparan warned, “There will be some ... collateral damage but it will be short and tolerable...The enemy would blow it up as a massive violation of human rights, but to me it would just be necessary incidents...” Insisting that he does not condone human rights violations, Major General Palparan put forward the view that potential vigilante-style actions by anti-communist elements outside of the military organization cannot be stopped completely; “The killings, I would say, are necessary incidents in a conflict. Because they (the rebels) are violent. ... It is not necessary that the military alone should be blamed. We are armed, of course, and trained to confront and control violence, but other people whose lives are affected in these areas are also participating and helping us”. (Agence France Presse, 3 February 2006).

<sup>83</sup> See n.43.

<sup>84</sup> See n.12.

<sup>85</sup> The COC-IS, which is reported to currently exert the predominating influence over the direction and conduct of the GRP peace process and counter-insurgency campaign, is made up of the Executive Secretary (Presidential Chief of Staff), the National Security Advisor, the Secretaries of Justice and Defence, and the chiefs of the AFP and PNP.

government was beginning a crackdown on all known “communist fronts” in society, and would achieve its goal of destroying the CPP-NPA by the year 2010.<sup>86</sup>



A religious leader and activist, Reverend Edison Lapuz, campaigned for the rights of peasant and fishing communities.

© Karapatan

### Case Study: Reverend Edison Lapuz

Reverend Edison Lapuz, aged 38 and married with two children, was killed on May 12, 2005, at around 6:30 in the evening, while both he and his wife, Emma, were resting at her father’s house in Barangay Crossing, San Isidro, Leyte. They had returned to the house that afternoon with at least 10 relatives and friends after attending the funeral of Emma’s father.

Two unidentified armed men reportedly entered the house and, at a distance of about two meters, shot Reverend Lapuz in the head and stomach. He died on the spot. A friend, Alfredo Manilao, a local barangay councillor and peasant organizer, was also shot in the attack and died later in hospital.

Reverend Lapuz was a Minister of the United Church of Christ in the Philippines, serving on its National Council and leading its community of rural churches in the Eastern Leyte region. Active in seeking to defend the rights and livelihoods of marginalised communities, including peasants and fisher folk, he also served as a regional coordinator for the party-list group *Bayan Muna*, supporting its peaceful participation in parliamentary politics. Following the killing of local human

rights lawyer Felidito Dacut, he played a leading role in forming a protest group calling for investigation and prosecution of those responsible.

According to reports compiled by a human rights documentation team from *Karapatan* that visited the area shortly after the attack, local residents recalled seeing four unidentified men on two motorcycles passing the neighbourhood prior to the shooting. Reverend Lapuz had reportedly been subjected to surveillance by suspected military personnel in the months prior to the attack. His sister described how uniformed military personnel had come to their father’s house in October 2004, identified themselves as members of the United Church of Christ in the Philippines, and requested detailed information about her brother, his address in Tacloban City and his current whereabouts. Military personnel reportedly made a visit to their father’s house and asked similar questions about a week before the attack.

Prior to his death, Reverend Lapuz expressed concern to fellow church workers in Manila that he and his colleagues were under military surveillance and subject to harassment. It was also reported that his name had been included in a military “Order of Battle” list and that his photograph was displayed in a local camp of the police Regional Mobile Group - a unit often involved in counter-insurgency operations.

According to reports collated by the Asian Human Rights Commission, there are continuing serious concerns about the course of police investigations into the killings and, in particular, reported failures to offer adequate protection to relatives and other witnesses who fear reprisals if they involve themselves further with police investigations. Investigations are reported to remain “stalled” and, over a year since the attack, no arrests have been made or charges filed and the case remains unresolved.

## 5.3 The background of the victims and location of attacks

The majority of the victims of political killings have been unarmed civilians, members of the legal political left, primarily *Bayan Muna*, *Anakpawis* and *Bagong Alyansang Makabayan*

<sup>86</sup> National Security Advisor Noberto Gonzales, “We have to stop them from abusing our democratic space and stop them using taxpayers’ money to fund the operations of the NPA and their front organizations to destroy the very same democratic and constitutional institutions they enjoy.” (Philippine Star, 13 March 2006). He also accused party-list Congress representatives of using government funds, allocated to all Congress members for constituency development purposes, to finance the CPP-NPA revolutionary struggle. Officials additionally alleged that while the five congress members facing charges of rebellion were nominees of leftist organizations, they are also members of the CPP-NPA’s central committee.

(BAYAN - New Patriotic Alliance), but including activists from a range of leftist sectoral or community organisations. Those killed have also included members of leftist groups who have split from the CPP, including the *Kilusan para sa Pambansang Demokrasya* (KPD - Movement for National Democracy). Both men and women have been targeted, with the victims including community organizers, church workers and priests, human rights activists, trade union and peasant leaders, journalists, indigenous peoples activists, elected local officials and political activists.

Attacks have occurred nationwide, though human rights and other organisations have noted periodic, marked increases in particular regions, notably Mindoro Oriental,<sup>87</sup> Eastern Visayas and Central Luzon (including Bulacan, Pampanga, Bataan and Nueva Ecija provinces).<sup>88</sup> According to local human rights groups, these regional fluctuations were allegedly linked to the assignment of Major General Palparan as commanding officer in these regions. Major General Palparan has denied any involvement in such killings.

#### 5.4 Methodology of attacks and suspected perpetrators

The predominant method of attack has been shootings by unidentified assailants, mostly riding tandem on a motorcycle, who often obscure their identity with “bonnet” face masks or helmets. At times the assailants are supported by other men on motorcycles nearby or use unmarked vans. Many attacks were described as having been carried out in a “professional” manner, with the killers striking in broad daylight in public places, firing a limited number of shots targeted at the head or trunk of the body of the targeted person, before escaping unimpeded.

According to reports, a significant number of attacks have been preceded by warnings or death threats, and by patterns of surveillance by alleged security force personnel which reportedly led up to targeted attacks in or near the victims homes or offices, or while they undertook routine journeys. Following the killing of at least three activists in northern Luzon 2005,<sup>89</sup> leaders from the Cordillera Peoples Alliance (CPA) and *Bayan Muna-*

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<sup>87</sup> International Solidarity fact-finding missions, led by the human rights group *Karapatan* and other left-leaning political activist groups, including the Ecumenical Institute for Labor Education and Research, were organised in Mindoro in 2005 and in Central Luzon, Southern Tagalog, Negros Occidental, and Compestela Valley (Southern Mindanao) in May 2006.

<sup>88</sup> In April 2006 a fact-finding mission, led by the Citizen’s Council for Human Rights and *Kilusan para sa Pambansang Demokrasya* (KPD - Movement for National Democracy), and including representatives from Task Force Detainees of the Philippines, Ateneo Human Rights Centre, Balay, Families of Victims of Involuntary Disappearance (FIND) and the Philippine Alliance of Human Rights Advocates visited Bataan and Pampanga. The mission, prompted by reports of over 50 killings in Central Luzon since September 2005 interviewed a number of witnesses to alleged killings, “disappearances”, and harassment of communities. Major General Palparan took regional command in Central Luzon in September 2005.

<sup>89</sup> Romeo Sanchez, a *Bayan Muna*, Ilocos regional coordinator was shot dead in Baguio City in March 2005; Jose “Pepe” Manegdeg, a church worker was killed in Ilocos Sur in November 2005, and Albert Terredano, a human rights activist and agrarian reform official, was killed in Bangued, Abra, in November 2005. See Appendix 3: Additional case studies.

Cordillera, reported that they had been informed by sources within the AFP that they had been included on a military list as targets for attack. They described subsequent intensive surveillance or “casing” operations conducted by suspected military intelligence personnel, including being followed, vehicles carrying men (at times covering their faces) stationed outside their office or driving repeatedly by, and apparent attempts to break-in to their offices or cars.

In other cases, well-established AFP counter-insurgency techniques appeared to be linked to subsequent attacks. The practice of “zoning”, whereby the military target a village or district believed to be influenced by the CPP-NPA, order the inhabitants to assemble to listen to lectures, at times using former insurgents now being used as military “assets”, about the communist threat so as to encourage informants and identify alleged communist supporters within the community, reportedly leads to the public labelling of legal left activists, or their inclusion on military “orders of battle”.<sup>90</sup>

Once named, the threat of subsequent assassination attacks by unidentified men is markedly increased. In this manner Tarlac City Councillor Attorney Abelardo Ladera<sup>91</sup> shot on the highway in central Luzon in 2005, had reportedly been named in a news briefing as an NPA contact in the region,<sup>92</sup> while Jose “Pepe” Manegdeg,<sup>93</sup> shot dead in Ilocos Sur in November 2005, had been labelled by the AFP as a NPA supporter and had received death threats

## 5.5 Ineffective investigations and a climate of impunity

*Prosecution and punishment break the cycle of crime and impunity. It protects the public from the culprits repeating their crimes and it helps to deter others from committing similar crimes by raising the real threat that they too, may be caught and punished.*<sup>94</sup>

Failure to investigate political killings effectively and to prosecute the perpetrators risks perpetuating a cycle of human rights violations, not least by sending a message of *de facto* state tolerance for such practices. If military or other officials, or others linked to them, believe that they are, in practice, immune from prosecution for such crimes they will be more

<sup>90</sup> An “order of battle” is a list of military “enemies”, ranked in order of their importance and based on intelligence reports, who should be targeted in offensive military operations. Members of legal activist groups fear that inclusion on such lists sharply increases the risk of being targeted for assassination. In one illustrative case, Expidito Albarillo, a *Bayan Muna* municipal coordinator in Mindoro Oriental and his wife Manuela were shot dead in April 2002 by unidentified gunmen. In March, he had reportedly been summoned to a military camp and informed that his name was on the “order of battle”. An officer allegedly threatened him saying, “We kill everyone who is in our order of battle and cannot be silenced.” For an example of alleged military involvement in the political killing of a leftist activist, see Audie Lucero in Appendix 3: Additional case studies.

<sup>91</sup> See case study under 5.5.

<sup>92</sup> Bulatlat, Vol. V, No. 14, May 2004.

<sup>93</sup> See Appendix 3: Additional case studies.

<sup>94</sup> Amnesty International: “*Disappearances*” and *Political Killings - Human Rights Crisis of the 1990s - A Manual for Action* (ACT 33/01/94, 1994), p. 157.

likely to repeat them. Such a climate of impunity undermines public confidence in the administration of justice, eroding the rule of law and respect for human rights.

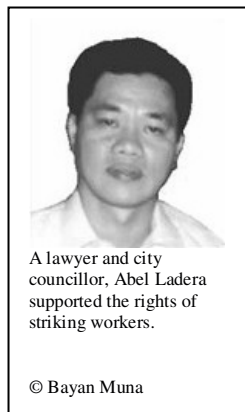
In the Philippines while the authorities routinely launch police investigations into political and other killings, and in May 2006 established a special unit - Task Force Usig - to better coordinate investigations into political killings at a national level, Amnesty International is concerned at persistent reports that the majority of investigations do not meet international standards as set forth in the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, as supplemented by UN Manual Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.<sup>95</sup> Amnesty International is further concerned that these investigations have reportedly not led to the conviction of any of the perpetrators of the hundreds of killings of leftist activists since 2001.

An international fact-finding mission of lawyers and judges,<sup>96</sup> who visited the Philippines in June 2006 in response to reported extrajudicial executions of members of the legal profession within the context of a pattern of political killings, found that in the cases of 15 lawyers and ten judges killed since 2001 none of the perpetrators have been convicted. The Secretary of the Interior and Local Government, responsible for the police, also informed the mission that Task Force Usig had recorded a total of 114 party-list members killed since 2001. Out of this total, 27 cases had been filed in court and the remaining 86 are still under investigation. Out of the 27 cases filed in court, the PNP has arrested suspects in only three cases. No convictions have been reported.

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<sup>95</sup> The UN Principles were adopted by the Economic and Social Council in Resolution 1989/65, in 1989 and are supplemented by the UN Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, 1991. UN Sales No. E.91. IV.I. See the Romy Sanchez case in Appendix 3: Additional case studies.

<sup>96</sup> *From Facts to Action, Report on the attacks against Filipino Lawyers and Judges, International Fact Finding Mission*, Dutch Lawyers for Lawyers Foundation, July 2006.



A lawyer and city councillor, Abel Ladera supported the rights of striking workers.

© Bayan Muna

### **Case Study: Abelardo Ladera**

Attorney Abel Ladera, aged 45 years old, was killed at around 1:00 in the afternoon on 4 March 2005. A City Councillor of Tarlac, Central Luzon, Attorney Ladera was shot dead by an unidentified assailant armed with a rifle as he was on his way home via the McArthur Highway in Barangay Paraiso, Tarlac City.

Councillor Ladera had stopped at an auto supply store in Barangay Paraiso to buy spare parts with his companion, Alberto Sebastian, when he was shot in his upper left chest. He was taken by his driver to the Central Luzon Doctors Hospital but he was declared dead on arrival. According to an autopsy report he was killed instantly by a single bullet piercing his heart.

Councillor Ladera was a Tarlac provincial chapter leader of *Bayan Muna* and played a role in representing the interests of sugar mill workers and farmers involved in strike negotiations at the nearby Hacienda Luisita and Central Azucarera de Tarlac sugar plantations. In November 2004, seven sugar workers and their supporters were killed as gunfire broke out as police and soldiers violently dispersed a picket line.

In January 2005 military officers from the Northern Luzon Command described the Hacienda Luisita strike as a “matter of national security” and listed Councillor Ladera, along with other trade union officials, as “the contact person of the CPP and its armed wing, the NPA, in Hacienda Luisita”<sup>97</sup> and “enemies of the state”. Several pamphlets allegedly issued by the military falsely portrayed Councillor Ladera as the nephew of a well-known NPA commander, and military reports publicly implicated him in claims that NPA fighters had been responsible for the violence during the Hacienda Luisita picket dispersal.

Police stated that at least five witnesses had seen the attack and the police reportedly constituted a local task force to conduct investigations. Initial inquiries linked the attack to Councillor Ladera’s involvement in the Hacienda Luisita labor dispute. Police later announced that a suspect, who has already been facing charges of robbery and murder, had been linked to the killing and that a note with his handwriting was found near the auto supply store where Ladera was killed. The suspect, described as “hired gunman” and former NPA member, was also linked to the killing of Reverend William Taneda<sup>98</sup> and police suspected that both attacks may have been instigated by an anti-communist vigilante group.

However amid concerns expressed by the Governor of Tarlac that that lack of witness protection and evidence was preventing the police from identifying and prosecuting the perpetrators, the case remains unresolved.

In explaining the difficulties in investigating such cases, senior police officers described how forensic capability and technology was not yet sufficiently developed, so that it cannot stand alone as evidence in the absence of eye-witnesses. In May 2006, a police director working with Task Force Usig had also acknowledged that the refusal of witnesses to come forward is a major obstacle in PNP efforts to investigate and to collect evidence sufficient to support the filing of criminal charges.<sup>99</sup> The police also blamed witnesses for their unwillingness to cooperate, stating that it “unnecessarily” caused undue delays in the prosecution of such cases.<sup>100</sup> While acknowledging that witnesses are fearful of reprisals, one officer suggested this was due not to government institutions, but to a “general fear” of revenge by the NPA. However the lawyers and families of the victims questioned by the international fact-finding mission confirmed that they mistrusted and feared the police and

<sup>97</sup> See n.38.

<sup>98</sup> See Appendix 3: Additional case studies.

<sup>99</sup> PNP Director Emmanuel Carta, (PDI, 23 May 2006).

<sup>100</sup> See n.96, Annex 2.

that in one case, the witnesses to a killing had told the victim's family that they had been instructed to sign a statement different from the one they had given police.

Families of the victims have repeatedly complained of protracted and inconclusive police investigations which are reported to be indefinitely "stalled" due to an "absence of leads", or to have been "solved" if the investigating officers have filed an initial police investigation report with the prosecutor – which subsequently may not lead to the prosecutor filing charges and applying for a warrant of arrest.<sup>101</sup> In conjunction with lack of confidence in the impartiality of the police, fear of reprisals and a lack of an effective witness protection programme, most investigations remain ineffective and fail to lead to the identification, arrest, trial and conviction of the perpetrators.

Based on the requirement of Principle 9 of the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions which states that "there shall be thorough, prompt and impartial investigations", Amnesty International believes that urgent steps are needed to ensure investigations are indeed effective. In order to exercise due diligence in the protection of the right to life and to combat the current pattern of political killings, police and other investigative units must be independent and impartial, be adequately resourced and have the necessary criminal detection, forensic and other investigative skills.<sup>102</sup>

Ineffective investigations, which fail to lead to prosecutions and convictions, have played a role in sustaining a broader climate of impunity that has been allowed to persist since the presidency of Ferdinand Marcos (1965-1986). The vast majority of soldiers, paramilitaries and police responsible for endemic human rights violations during the Marcos years have never been prosecuted and most of their victims have received neither justice nor redress.<sup>103</sup> Although President Marcos' successor, President Corazon Aquino (1986-1992), promulgated a new Constitution, restored democratic institutions and instituted mechanisms for the protection of human rights, an entrenched public belief that a climate of impunity protected security forces personnel responsible for past and continuing patterns of grave human violations remained intact. President Aquino's administration, attempting to manage a

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<sup>101</sup> Open Letter to New Chief of Philippine National Police, Asian Human Rights Commission, 6 July 2006.

<sup>102</sup> Appendix 1; Point 10.

<sup>103</sup> Faced with the lack of criminal prosecutions of security personnel accused of human rights violations, five victims of torture under President Marcos launched a civil suit (*Aberca vs. Ver*) in 1983 for damages against nine military officers. In 1993, in a rare example of judicial redress, a Court ruled that the defendants were culpable of "military atrocities" and ordered them to pay damages. However the ruling has since remained under appeal. Victims of human rights violations also sought redress in other jurisdictions. In 1986, invoking the US Alien Tort Claims Act, a class action civil suit was filed on behalf of 10,000 Filipinos in a US federal court in Hawaii against President Marcos' estate. The US Court found Marcos responsible for patterns of extrajudicial executions, "disappearances" and torture, and in 1994 awarded the plaintiffs US\$ 2 billion in damages. Legal and other disputes over the amount and the distribution of the award have yet to be finally resolved.

political transition from the former martial law regime and facing direct challenges from repeated coup attempts by right-wing military rebels, considered it necessary to maintain the support of loyal military leaders. To this end there was no government pressure for systematic investigation and prosecution of security personnel accused of perpetrating human violations under martial law and in the context of past and renewed counter-insurgency operations.<sup>104</sup>

Amnesty International<sup>105</sup> and other international<sup>106</sup> and national human rights groups<sup>107</sup> repeatedly expressed grave concern that the continuing paucity of prosecutions and convictions of state perpetrators of human rights violations, including extrajudicial executions, “disappearances”<sup>108</sup> and torture,<sup>109</sup> risked entrenching a *de facto* climate of impunity that emboldened security personnel to commit further violations in the context of anti-insurgency operations. A bleak picture of persistent failures in the administration of justice was highlighted by the fact that of the 1,509 cases of alleged human rights violations filed by the Philippine Commission on Human Rights before the courts between 1987 and 1990, only 11 cases resulted in sanctions against the perpetrators.<sup>110</sup>

Amnesty International is concerned that flaws within the administration of justice that have long underpinned a *de facto* climate of impunity - including ineffective investigations, reluctance of witnesses to come forward for fear of reprisals, and an apparent lack of political will to ensure the prosecution of suspects, continues to endure. These flaws were sharply illustrated by a pattern of killings of street children and other suspected criminals by

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<sup>104</sup> The breakdown of peace talks with the CPP-NPA in 1987 led to the promotion of the “Total Approach” counter-insurgency campaign, including the increased use of official militia, semi-official paramilitary forces and unofficial “vigilante” groups to hold and consolidate NPA-influenced areas following offensive military operations. Such militias and “vigilantes” often badly trained and not under effective chain-of-command control, were responsible for widespread extrajudicial executions and other human rights violations. See n.19 and also *Out of Control: Militia abuses in the Philippines*, Lawyers Committee for Human Rights, New York, 1990.

<sup>105</sup> “Members of the security forces have committed extrajudicial executions with impunity despite the Government’s stated commitment to the protection of human rights and substantial legal and constitutional guarantees of these rights. According to available information, only two members of the official security forces, two military “assets” and two former members of the Citizen’s Home Defence Force have been sentenced to prison terms for extrajudicial executions committed since January 1986”; Chapter 5, ‘The problem of impunity’ in Amnesty International’s report: *The Killing Goes On* (ASA 35/01/92, 1992). In a notable exception, 16 military men were convicted by a government corruption court in 1990, for the 1983 murder of former Senator Benigno Aquino, the late husband of President Aquino.

<sup>106</sup> *Impunity: Prosecutions of Human Rights Violations in the Philippines*, Lawyers Committee for Human Rights, New York, 1991.

<sup>107</sup> *A let-down in Peace, No let-up in War*, Philippine Alliance of Human Rights Advocates, Manila, August 1993.

<sup>108</sup> Amnesty International report: *Philippines - Not forgotten: the fate of the “disappeared”* (ASA 35/08/96, November 1996).

<sup>109</sup> See n.55.

<sup>110</sup> Belinda Aquino, *Impunity and Human Rights in International Law and Practice*, edited by Naomi Roht-Arriaza, Oxford University Press (1995); Chapter 17.

unidentified “vigilantes” in Davao City (Mindanao) and Cebu City<sup>111</sup> (Visayas) in recent years. In Davao City at least 390 “criminals”, mostly alleged drugs pushers, solvent abusers or petty thieves, and including street children and youth gang members, have reportedly been shot dead in the city since 2001. The majority of attacks were carried by unidentified men on motorcycles, and local human rights groups expressed alarm at reports that local police were directly responsible, or else had colluded with private “vigilante” gangs in carrying out such killings in an effort to combat criminality and “clean up” the city’s streets. These concerns intensified as the city’s mayor appeared to condone the killings, while denying any direct official responsibility.<sup>112</sup> Police investigations have failed to lead to the identification and arrest of those responsible and Amnesty International is not aware of a single prosecution that has led to the conviction of any of the perpetrators.

National and international journalist groups<sup>113</sup> have also expressed concern at the high number of unsolved killings of journalists in the Philippines. At least 64 journalists are reported to have been killed since 1986 as a result of their work, with at least 10 in 2005 and 9 in the first seven months of 2006. Prosecution and conviction of those responsible remain rare. The conviction in November 2005 of a former police officer responsible for the murder in 2002 of Edgar Damalerio, a radio journalist in Pagadian (Mindanao), is reported to be only the third such conviction since 1986.<sup>114</sup> During the investigation and subsequent trial, Edgar Damalerio’s family were repeatedly threatened and one witness was killed. The court rejected as false evidence given by the accused associates, including police officers.

Failures to prosecute and convict security personnel suspected of carrying out or being complicit in grave human rights violations continues to fuel the perception that a climate of impunity is shielding such officers from being held to account. Prominent, well-publicised examples include the failure to bring suspects to trial in the case of the reported extrajudicial execution by police of 11 alleged members of the *Kuratong Baleleng* bank robbery gang in a Manila street in 1995,<sup>115</sup> and the failure to hold anyone accountable for the alleged

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<sup>111</sup> At least 162 “vigilante-style” killings of suspected criminals have been reported in Cebu City since December 2004. Cebu City Mayor Tomas Osmena stated he would not prioritise investigations, “As a matter of fact I’m happy some of those killed are robbers...To me, as long as there are fewer robberies and [bag] snatching, it’s not so bad” (Sun Star, 2 June 2006).

<sup>112</sup> Davao City Mayor Rodrigo Duterte stated, “I don’t mind us being called the murder capital of the Philippines as long as those being killed are the bad guys...From Day One I said henceforth Davao City will be very, very dangerous for criminals. I’ve been telling criminals it’s a place where you can die any time. If that’s a cue for anybody, that’s fine”. (The Washington Post, 30 November 2003).

<sup>113</sup> The Philippine Center for Media Freedom and Responsibility, Nation Union of Journalists of the Philippines, *Reporters Sans Frontiers* (Reporters without Borders or RSF), The International Federation of Journalists (IFJ) and the Committee to Protect Journalists (CPJ). According to RSF, IFJ and CPJ, the Philippines is second only to Iraq as the most dangerous place in the world to be a journalist.

<sup>114</sup> Philippine Center for Media Freedom and Responsibility, Statement, 1 December 2005.

<sup>115</sup> *Human Rights Treatise on the Legal and Judicial Aspects of Impunity*, Conference proceedings and related articles, Ateneo Human Rights Center, Makati, 2001.

torture by police in 1996 of six men accused of the murder of Rolando Abadilla, a former Marcos-era police intelligence officer.<sup>116</sup>

In this context, public trust in the integrity and effectiveness of the criminal justice system as a whole remains at a low ebb. Amid periodic allegations of corruption by some public officers, confidence that the right of victims of human rights violations to justice and redress will be respected continues to be undermined by persistent reports of ineffective, protracted investigations by police, public prosecutors or the Office of the Ombudsman;<sup>117</sup> by lengthy delays in the course of criminal trials; and by the perception that those with wealth or political connections are able to improperly exert influence over the investigative agencies or the courts.<sup>118</sup>

Victims of human rights violations and their families, particularly those from poor or marginalized communities, often consider that they face overwhelming obstacles in accessing justice - particularly when the alleged perpetrators are military or police personnel. As noted above and reflected in the case studies in this report, a major obstacle in combating impunity in the Philippines is the reluctance of witnesses to come forward. Serious intimidation of witnesses has long been a feature of cases involving attempts to investigate and prosecute cases of human rights violations taking place within the context of the counter-insurgency campaign. Death threats and other intimidation of witnesses, at times accompanied by offers of financial compensation or other inducements, have frequently led to “amicable” settlements out of court.

In addition, many victims and their relatives from poorer communities are unable to sustain the protracted financial and emotional strain of pursuing a complaint or a criminal case, especially when required to travel to distant investigative offices or courts for hearings that may be subject to repeated last-minute delays, administratively “shelved” or transferred to a different tribunal.<sup>119</sup> Amid such pressures complainants and key witnesses or relatives of the victims are liable to refuse to involve themselves in police investigations, or to withdraw from further participation in court proceedings or investigations conducted by the Philippine Commission on Human Rights or Office of the Ombudsman, thus restricting the ability of prosecutors and the courts to secure convictions.

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<sup>116</sup> Amnesty International report, *Philippines: The Rolando Abadilla murder inquiry – an urgent need for effective investigation of torture* (ASA 35/08/00, October 2000). In 2006, ten years after credible complaints of torture by police to extract “confessions” were filed by six men accused of the murder of Rolando Abadilla, no prosecutions of the police suspects have yet taken place. This state of affairs followed a recommendation by the Philippine Commission on Human Rights that charges be filed against police suspects as well as prolonged and unexplained delays by Department of Justice prosecutors to act on these recommendations. The complainants were found guilty of murder and sentenced to death in 1996. Their case remains under appeal.

<sup>117</sup> “Ombudsman’s failure to resolve cases of murder, extrajudicial killings and torture, prevents police and military from being charged” (Asian Human Rights Commission Appeal Update, 31 July 2006).

<sup>118</sup> See n.115.

<sup>119</sup> Amnesty International statement, *Philippines: The Killing of Gary Dalayhon*, (ASA 35/06/95, September 1995).



Father Tadena supported the struggle for workers' rights through agrarian land reform measures.

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### Case Study: Father William Tadena

Reverend Father William Tadena, aged 37 years, was killed shortly after 8:00 in the morning on 13 March 2005. A parish priest of the Iglesia Filipina Independiente (IFI) in La Paz, Tarlac, Luzon, he was attacked when travelling in his jeep with three colleagues along the provincial highway from Barangay Guevarra towards La Paz to celebrate his second mass of the day.

Father Tadena was Chairman of the Human Rights and Social Concerns Committee of the IFI Diocese of Tarlac, a member the local chapters of the Promotion of Church People's Response and *Karapatan*. He was a critic of the owners of the Hacienda Luisita sugar plantation in Tarlac and actively supported workers and farmers in their lengthy strike over alleged failures to honour agrarian land reform agreements and other issues in Hacienda Luisita. He was also worked in support of homeless and other marginalised communities in the province.

According to witness reports collated by *Bayan Muna* and *Karapatan*, several unidentified persons with "bonnet" face-masks were seen in the vicinity of

Father Tadena's parish prior to attack. Subsequently, as Father Tadena drove along the highway near the IFI Chapel, an unidentified person called out "Father" and waved at him to stop. When he slowed down his vehicle two unidentified men on a motorcycle approached his jeep. Father Tadena sensed that it was an ambush and shouted to his companions in the vehicle that they were in danger. At that moment one of the perpetrators fired three gunshots into his back. The gunman then positioned himself beside the jeep and fired two more shots into Father Taneda's neck and head before rejoining his accomplice on the motorcycle and making an escape.

Several IFI parishioners hurried to the scene and took Father Tadena to hospital, where he later died. According to autopsy reports, the victim suffered gunshot wounds from a .45 calibre pistol in the back, neck and head. Father Tadena's sacristan, parish secretary and guitarist who had accompanied him in his vehicle were injured in the attack, two with gunshot wounds.

According to newspaper reports, two months after attack the Tarlac City police chief announced that a suspect had been arrested in Mandaluyong City on a number of separate robbery and murder charges. The suspect, described by police as a former NPA member turned "gunman for hire", was later reportedly identified by one of Father Taneda's companions as one of the attackers. The police claimed also that the suspect's handwriting had been found on notes found near both the scene of Father Taneda's killing and that of Abelardo Ladera.<sup>120</sup> The notes were reportedly written in the name of a local "vigilante" group, KKK, which had denounced alleged "atrocities" carried out by the NPA and its supporters. The regional office of the Philippines Commission on Human Rights reported that they had concluded their inquiries but recommended further investigations.

Murder charges were reportedly filed against the suspect and another, also described as a former NPA member. According to information received, court proceedings have not concluded and the case remains ongoing.

Amnesty International believes that effective protection of witnesses and the relatives of the victims must be a priority element within PNP investigation efforts. A number of groups including the Asian Human Rights Commission have campaigned to ensure that witness protection programmes in the Philippines are robust and effective. Amnesty International shares their serious concerns that the implementation of the relevant legislation, the Witness Protection, Security and Benefit Act (RA 6981), fails, in practice, to ensure the safety of witnesses. Under the Act, the Department of Justice is empowered to deliver a program of protection to witnesses to grave felonies, including secure housing facilities, relocation or change of personnel identity, and assistance in obtaining a means of livelihood. The law also provides that the court or investigating authority shall assure a speedy trial,

<sup>120</sup> See case study in section 5.5.

where a witness admitted into the program shall testify, and shall endeavour to finish the proceeding within three months for the filing of the case. However as noted by the Ateneo Human Rights Centre,<sup>121</sup> the reality is that most cases take far longer than three months not least because of postponements, usually requested by the accused, and the length of time that the Supreme Court takes in deciding change of venue petitions for the protection of witnesses. Most witnesses are reported to lack confidence in the program, and fear that, given prolonged delays in criminal proceedings, it will not be able to offer protection to them or their families which may be needed to extend over years.

As described earlier, Article 6 of the ICCPR, which provides for the right to life, further states that “No one shall be arbitrarily deprived of his life”.<sup>122</sup> In order to effectively combat patterns of politically motivated extrajudicial executions and other unlawful killings in the Philippines, the government has a clear duty to consistently condemn and prohibit all such killings, to ensure each is thoroughly and independently investigated, to bring suspected perpetrators to justice and to ensure reparations to victims.

As stated in 2005 by the UN Special Rapporteur on extrajudicial, summary or arbitrary killings these duties lie on the authorities in relation to killings by non-state actors, when they act with the knowledge or acquiescence of the authorities and as a result are not subject to effective investigation, prosecution or punishment. In addition the Special Rapporteur state that crimes, including murder, carried out by individuals can also give rise to state responsibility in instances where the State has failed to take all appropriate measures to deter, prevent, and punish the perpetrators as well as address any attitudes or conditions in society which encourage or facilitate such crimes.

“In most situations, isolated killing of individuals will constitute a simple crime and not give rise to any governmental responsibility. But once a pattern becomes clear in which the response of the Government is clearly inadequate, its responsibility under international human rights law becomes applicable. Through its inaction the Government confers a degree of impunity upon the killers.”<sup>123</sup>

An essential part of due diligence of the part of the state, and a crucial component in the battle against impunity, is the conduct of effective investigations which lead to prosecution and punishment of perpetrators of extrajudicial killings. The UN Human Rights Committee, responsible for monitoring compliance of state signatories with obligations under the ICCPR, identified this as among its principal subjects of concern after considering the periodic reports of the Philippines in October 2003.<sup>124</sup> Amnesty International shares this

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<sup>121</sup> See n.115.

<sup>122</sup> This prohibition on arbitrary killings is important because it helps distinguish extrajudicial executions from killings which are not prohibited under international law, such as killings resulting from reasonable use of force in law enforcement, and killings in armed conflicts not forbidden by the Geneva Conventions.

<sup>123</sup> Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions to the U.N. Commission on Human Rights, (E/CN.4/2005/7).

<sup>124</sup> ICCPR: Concluding observations of the Human Rights Committee: Philippines (01/12/2003) (CCPR/CO/79/PHL). Principal subjects of concern and recommendations: “8. The Committee is

conviction and urges the government to address the problem of adequate investigations and prosecutions in the Philippines. This is particularly urgent in relation to the continuing pattern of political killings.

## **6. Conclusions**

Unearthing the evidence establishing responsibility for the current pattern of political killings will take political will. It will require political determination and persistent practical efforts to undo the legacy of impunity, which has the potential to undermine efforts to hold perpetrators of political killings accountable and is aided by the assumption that such killings are to some degree an acceptable by-product of continuing armed conflict.

It will take sustained efforts to unravel the chronology of events that led each attack, to establish the facts constituting every political killing and to establish whether there was an official chain of command underlying both the crime and its cover-up. Effective, robust measures are necessary to protect those who come forward to assist the case.

Unless these steps are taken, the corrosive impact of political killings will continue and hopes for a just and lasting peace, as outlined in the government's 2004-2010 Peace Plan<sup>125</sup> will remain unrealized.

The struggle for respect for human rights, fought with high cost from the time of President Marcos and reflected in the 1986 Constitution and the Philippines' ratification of international human rights treaties, is facing a serious challenge. Within the context of "all-out-war" against communist insurgents the rising incidence of political killings risks a retaliatory spiral of killings by armed groups. The need is pressing for both sides of the

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concerned about the lack of appropriate measures to investigate crimes allegedly committed by state security forces and agents, in particular those committed against human rights defenders, journalists and leaders of indigenous peoples, and the lack of measures taken to prosecute and punish the perpetrators. Furthermore, the Committee is concerned at reports of intimidation and threats of retaliation impeding the right to an effective remedy for persons whose rights and freedoms have been violated.

a) The State party should adopt legislative and other measures to prevent such violations, in keeping with articles 2, 6 and 9 of the Covenant, and ensure effective enforcement of the legislation...

11. The Committee expresses concern regarding reported cases of extrajudicial killings, arbitrary detention, harassment, intimidation and abuse, including of detainees, many of whom are women and children that have neither been investigated nor prosecuted. Such a situation is conducive to perpetration of further violations of human rights and to a culture of impunity.

The State party should adopt and enforce legislative and other measures to prevent such violations in keeping with articles 6 and 9 of the Covenant and to improve the implementation of relevant laws. The State party should conduct prompt and impartial investigations, and prosecute and punish the perpetrators".

See also, *Human Rights Record of the Philippines: Spectacular on Paper - Consideration of the second periodic report of the Philippines by the UN Human Rights Committee*, (Asian Centre For Human Rights, 2003).

<sup>125</sup> The National Peace Plan, comprising Chapter 14 of the Medium Term Philippine National Development Plan 2004-2010. Office of the Presidential Adviser on the Peace Process (OPAPP).

conflict, supported by all sectors of civil society, to assert and commit to renewed respect for human rights.

## ***7. Recommendations***

In 1993 Amnesty International adopted a 14-point Program for the Prevention of Extrajudicial executions based on the United National Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (see Appendix I). If adopted and fully implemented, the organization believes these would effectively combat the practice of political killings, end impunity for those who commit them and ensure reparations to victims.

In light of the immediate threat of further political killings and other human rights violations in the Philippines, Amnesty International highlights below a selection of key recommendations, grouped under four headings, addressed to the Government of the Philippines, other national and international institutions, and armed groups.

Amnesty International believes that joint concerted action to fulfil these recommendations - actively supported and encouraged by religious, media, business and other groups within civil society - is required. Only then can the conditions be created in which respect for human rights becomes the foundations for the building of a just and lasting peace.

### ***I. Reassert Respect for Human Rights: the immediate priority***

To put a stop to the political killings Amnesty International urges the Government of the Philippines to take the following urgent steps:

#### **Official Condemnation**

Consistently and at every level of government condemn all political killings;

#### **Chain of command control**

Prohibit orders from superior officers or public authorities authorizing, tacitly encouraging or inciting other persons to carry out unlawful killings;

Ensure that those in charge of the security forces maintain strict chain of command control to ensure that officers under their command do not commit political killings;

Ensure that military or police personnel suspected of involvement in political killings are suspended from active duty during the investigation;

#### **Action against “death squads” and vigilantes**

Prohibit and disband any “death squads”, private armies, vigilantes, criminal gangs and paramilitary forces operating outside the chain of command but with official support or acquiescence;

Members of such groups who have perpetrated political killings should be brought to justice;

## ***II. Guarantee the Administration of Justice: reject impunity***

### **Investigation**

Ensure that all complaints and reports of political killings are investigated promptly, impartially and effectively;

To this end, ensure that investigation agencies at the national, provincial and local level fulfil the following criteria:

- They are independent of those allegedly responsible. This applies both to individual investigators and to the investigating body as a whole;
- They have the necessary powers and resources;
- Personnel carrying out the investigation and their staff are professionally competent for the required tasks;
- The investigation creates the opportunity for the effective questioning of witnesses;
- Witnesses and investigators are protected against intimidation and reprisals;
- The methods and findings of investigations are made public;

Institute effective oversight by a body independent of Task Force Usig to ensure the above criteria are fulfilled. The independent oversight body should also ensure that all investigations of political killings are supported by effective coordination between the Philippine National Police, National Bureau of Investigation, Department of Justice and Department of National Defence;

### **Prosecution**

Ensure that those responsible for political killings are brought to justice. This principle should apply wherever such people happen to be, wherever the crime was committed, whatever the identity of the victim and perpetrator and no matter how much time has elapsed since the commission of the crime;

### **Protection against death threats and other intimidation**

Take action to fully implement the Witness Protection, Security and Benefit Act (RA 6981) in order to:

Ensure safe, reliable and durable mechanisms guaranteeing the participation of witnesses to political killings in the legal process;

Ensure that others involved in the investigation including complainants, human rights defenders and lawyers should be also protected from intimidation and reprisals;

### **Compensation**

Dependents of victims of political killings should be entitled to fair and adequate redress from the state, including financial compensation.

### ***III. The Peace Process: compliance with the Human Rights Agreement***

In order to rebuild trust and create conditions conducive to the revival of the peace process, human rights must be respected and protected. Amnesty International urges all sides involved in the armed conflict to reassert respect for human rights and:

Recommit to and ensure compliance with the 1995 Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL);

Enhance respect for human rights on the ground by taking steps to ensure the operation of the Joint Monitoring Committee of the CARHRIHL;

Take action to implement remedial and protective measures recommended by the Joint Monitoring Committee following its consideration of complaints of breaches of CARHRIHL.

### ***IV. Other Human Rights Mechanisms: a call for action***

#### **National:**

As part of coordinated efforts to investigate all complaints of political killings by relevant investigative agencies and human rights institutions, Amnesty International urges:

The Deputy Ombudsman for the Military and Other Law Enforcement Offices to conduct prompt, thorough, impartial and effective investigations into all complaints of political killings allegedly involving military, police or other security personnel. These investigations should, as appropriate, lead promptly to recommendations to the Department of Justice to file criminal charges against those found responsible;

The Philippine Commission of Human Rights be adequately resourced to enable it to conduct comprehensive and thorough investigations of complaints of political killings. The Commission should vigorously exercise its right not to endorse the promotion of military and other security personnel it finds to have been responsible for human rights violations.

**International:**

The UN Human Rights Committee, responsible for monitoring the Philippines' compliance with its obligations under the International Covenant on Civil and Political Rights (ICCPR), made a series of recommendations in 2003.<sup>126</sup>

Responding to a situation it regarded as conducive to a perpetration of further violations of human rights and to a culture of impunity, the Committee called for government action in respect of the lack of appropriate measures to investigate crimes allegedly committed by state security forces and agents; action to prosecute and punish the perpetrators; and action to respond to reports of intimidation and threats impeding the right to an effective remedy by those subjected to human rights violations.

Amnesty International urges the Government of the Philippines to take determined, prompt steps to ensure effective implementation these recommendations;

Amnesty International also urges the Government of the Philippines, in responding to the recommendations of the Human Rights Committee, to access the expertise of relevant UN special mechanisms by inviting the Special Rapporteur on Extrajudicial Executions, the Special Representative on Human Rights Defenders, and representatives of the Working Group on Arbitrary Detention to visit the Philippines.

In addition, in 2006 the Inter-Parliamentary Union (IPU)<sup>127</sup> expressed concerns as regards possible arbitrary deprivation of liberty in the case of Congress Representative Crispin Beltran. Amnesty International urges the Government of the Philippines:

To respond and take action to resolve the concerns of the IPU;

To ensure that Congressional Representatives and all others accused of rebellion are not subjected to arbitrary or prolonged deprivations of liberty before the basis of allegations put forward by the police can be fully and independently scrutinised by the courts. All such suspects must be afforded in full their rights to due process and a fair trial.

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<sup>126</sup> See, n.124.

<sup>127</sup> Resolution adopted by the Governing Council of the Inter-Parliamentary Union, Nairobi, 12 May 2006, Philippines: Case No. PHI/01 – Crispin Beltran.

## ***Appendix 1: 14-point Program for the Prevention of Extrajudicial Executions***

### ***Adopted by Amnesty International in 1992***

Extrajudicial executions are fundamental violations of human rights and an affront to the conscience of humanity. These unlawful and deliberate killings, carried out by order of a government or with its complicity or acquiescence, have been condemned by the United Nations. Yet extrajudicial executions continue, daily and across the globe.

Many of the victims have been taken into custody or made to "disappear" before being killed. Some are killed in their homes, or in the course of military operations. Some are assassinated by uniformed members of the security forces, or by "death squads" operating with official connivance. Others are killed in peaceful demonstrations.

The accountability of governments for extrajudicial executions is not diminished by the commission of similar abhorrent acts by armed opposition groups. Urgent action is needed to stop extrajudicial executions and bring those responsible to justice.

Amnesty International calls on all governments to implement the following 14-Point Program for the Prevention of Extrajudicial Executions. It invites concerned individuals and organizations to join in promoting the program. Amnesty International believes that the implementation of these measures is a positive indication of a government's commitment to stop extrajudicial executions and to work for their eradication worldwide.

#### **1. Official condemnation**

The highest authorities of every country should demonstrate their total opposition to extrajudicial executions. They should make clear to all members of the police, military and other security forces that extrajudicial executions will not be tolerated under any circumstances.

#### **2. Chain-of-command control**

Those in charge of the security forces should maintain strict chain-of-command control to ensure that officers under their command do not commit extrajudicial executions. Officials with chain-of-command responsibility who order or tolerate extrajudicial executions by those under their command should be held criminally responsible for these acts.

#### **3. Restraints on use of force**

Governments should ensure that law enforcement officials use force only when strictly necessary and only to the minimum extent required under the circumstances. Lethal force should not be used except when strictly unavoidable in order to protect life.

#### **4. Action against "death squads"**

"Death squads", private armies, criminal gangs and paramilitary forces operating outside the

chain of command but with official support or acquiescence should be prohibited and disbanded. Members of such groups who have perpetrated extrajudicial executions should be brought to justice.

#### **5. Protection against death threats**

Governments should ensure that anyone in danger of extrajudicial execution, including those who receive death threats, is effectively protected.

#### **6. No secret detention**

Governments should ensure that prisoners are held only in publicly recognized places of detention and that accurate information about the arrest and detention of any prisoner is made available promptly to relatives, lawyers and the courts. No one should be secretly detained.

#### **7. Access to prisoners**

All prisoners should be brought before a judicial authority without delay after being taken into custody. Relatives, lawyers and doctors should have prompt and regular access to them. There should be regular, independent, unannounced and unrestricted visits of inspection to all places of detention.

#### **8. Prohibition in law**

Governments should ensure that the commission of an extrajudicial execution is a criminal offence, punishable by sanctions commensurate with the gravity of the practice. The prohibition of extrajudicial executions and the essential safeguards for their prevention must not be suspended under any circumstances, including states of war or other public emergency.

#### **9. Individual responsibility**

The prohibition of extrajudicial executions should be reflected in the training of all officials involved in the arrest and custody of prisoners and all officials authorized to use lethal force, and in the instructions issued to them. These officials should be instructed that they have the right and duty to refuse to obey any order to participate in an extrajudicial execution. An order from a superior officer or a public authority must never be invoked as a justification for taking part in an extrajudicial execution.

#### **10. Investigation**

Governments should ensure that all complaints and reports of extrajudicial executions are investigated promptly, impartially and effectively by a body which is independent of those allegedly responsible and has the necessary powers and resources to carry out the investigation. The methods and findings of the investigation should be made public. The body of the alleged victim should not be disposed of until an adequate autopsy has been conducted by a suitably qualified doctor who is able to function impartially. Officials suspected of responsibility for extrajudicial executions should be suspended from active duty during the investigation. Relatives of the victim should have access to information relevant to the investigation, should be entitled to appoint their own doctor to carry out or be present at an autopsy, and should be entitled to present evidence. Complainants, witnesses, lawyers, judges

and others involved in the investigation should be protected from intimidation and reprisals.

### **11. Prosecution**

Governments should ensure that those responsible for extrajudicial executions are brought to justice. This principle should apply wherever such people happen to be, wherever the crime was committed, whatever the nationality of the perpetrators or victims and no matter how much time has elapsed since the commission of the crime. Trials should be in the civilian courts. The perpetrators should not be allowed to benefit from any legal measures exempting them from criminal prosecution or conviction.

### **12. Compensation**

Dependants of victims of extrajudicial execution should be entitled to obtain fair and adequate redress from the state, including financial compensation.

### **13. Ratification of human rights treaties and implementation of international standards**

All governments should ratify international treaties containing safeguards and remedies against extrajudicial executions, including the International Covenant on Civil and Political Rights and its first Optional Protocol which provides for individual complaints. Governments should ensure full implementation of the relevant provisions of these and other international instruments, including the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, and comply with the recommendations of intergovernmental organizations concerning these abuses.

### **14. International responsibility**

Governments should use all available channels to intercede with the governments of countries where extrajudicial executions have been reported. They should ensure that transfers of equipment, know-how and training for military, security or police use do not facilitate extrajudicial executions. No one should be forcibly returned to a country where he or she risks becoming a victim of extrajudicial execution.

## ***Appendix 2: Arbitrary arrest and detention: safeguards and abuse***

### **Legal protections**

In the Philippines, a primary safeguard underpinning the right not to be subjected to arbitrary arrest is the general rule that a person can only be arrested with a warrant issued by a judge upon a finding of probable cause.<sup>128</sup> This rule allows a judicial officer, independent of the executive arm of government and law enforcement agencies, to exercise oversight, impartially assessing the grounds for an arrest, and maintaining a degree of scrutiny over the detention and any other subsequent investigation.

As detailed in the Rules on Criminal Procedure, for a judge to issue an arrest warrant the most common procedure would be for an investigating public prosecutor (Fiscal)<sup>129</sup> to conduct a Preliminary Investigation<sup>130</sup> to assess evidence, including the complaint lodged by the offended party or police, any related police investigation reports or witness affidavits and the counter-affidavits of the accused, in order to ascertain if an offence has probably been committed by the accused.

In the course of a preliminary investigation, the investigating prosecutor has ten days after the filing of a complaint either to dismiss it, or to request counter-affidavits and other documents from the respondent (who is required to reply within ten days).<sup>131</sup> After assessing the written evidence provided and personally examining the complainant and his/her witnesses, the investigating prosecutor, on finding probable cause, must prepare a resolution and accompanying Complaint or Information.<sup>132</sup> Within five days the investigating prosecutor is required to send it for approval by superior officers – the Provincial or City Prosecutor, or the Chief State Prosecutor. These officials are then required to take action on the case, including sending the Information for filing in Court, within ten days. On receipt of the approved Information, the Court then has a period of ten days within which to issue a warrant for the arrest of the accused, or to dismiss the Information.<sup>133</sup>

<sup>128</sup> In other words once a *prima facie* case has been established: “When there is reasonable ground to believe a crime has been committed and the accused is probably guilty thereof”. Revised Rules on Criminal Procedure (2001) 112, section 4.

<sup>129</sup> Preliminary investigations may be conducted by provincial or city prosecutors, and also by Municipal Court judges and national or regional state prosecutors.

<sup>130</sup> “Preliminary Investigation is an inquiry or proceeding for the purpose of defining whether there is sufficient ground to engender a well-founded belief that a crime cognizable by the Regional Trial Court has been committed and that the respondent is probably guilty thereof”. Revised Rules on Criminal Procedure (2001) 112, section 1.

<sup>131</sup> Revised Rules on Criminal Procedure (2001) 112, section 3(c).

<sup>132</sup> Definition of an Information: “An accusation in writing charging a person with an offence subscribed by an investigating fiscal and filed with the court”. Definition of a Complaint: “A sworn statement charging a person with an offence, subscribed by the offended party, any peace officer or other public officer charged with the enforcement of the law violated”. See Revised Rules on Criminal Procedure (2001) 112 sections 4 and 3, respectively.

<sup>133</sup> Revised Rules on Criminal Procedure (2001) 112, sections 4-5.

### Lawful arrest without a warrant

However the safeguards preceding the issue of a warrant of arrest, afforded by judicial oversight of the findings of the preliminary investigation, are not absolute. They can be circumvented by legal provisions that allow arrest without warrant in certain defined circumstances, and by jurisprudence that has interpreted certain crimes, including rebellion, as “continuing offences”.<sup>134</sup>

Under Rule 113 (Section 5) of the Rules on Criminal Procedure, an arrest without a warrant by an officer or a private person is lawful:

(a) *When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offence;*

(b) *When an offence has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested had committed it...*

It is the abuse of this provision which facilitates arbitrary arrests in the Philippines. Amnesty International is concerned that the use of warrantless arrests is extensive and that many of these arrests are unlawful – in that they are *not* effected as, or immediately after, a crime is committed.

### The inquest procedure

By law, when a suspect is arrested without a court warrant, he must be taken to the nearest police station or jail and, following a summary Inquest Procedure,<sup>135</sup> an Information must be filed in court within a maximum of 36 hours (depending on the seriousness of the offence).<sup>136</sup> This limited period of police custody can only be extended if the suspect signs a waiver<sup>137</sup> and requests a preliminary investigation.

<sup>134</sup> Constitutional rights in respect to arrests in the broad context of the armed conflict have been interpreted restrictively in a number of Supreme Court cases, particularly *Umil v. Ramos* (202 SCRA 251), in 1991. In this case, the Court ruled that subversion or rebellion could be seen as a ‘continuing offence’, thus a warrantless arrest might be lawful even if the suspect was not actively doing anything subversive or rebellious at that instance.

<sup>135</sup> An Inquest is defined as “an informal and summary investigation, conducted by a public prosecutor (Inquest Fiscal) in criminal cases involving persons arrested and detained without the benefit of a warrant of arrest issued by a court, for the purpose of determining whether or not said persons should remain under custody and correspondingly be charged in court.” *New Rules on Inquest*, Department of Justice Circular No. 61 (21 September 1993) Section 1.

<sup>136</sup> Article 124 of the Penal Code imposes penalties of imprisonment on officers who arbitrarily detain a person without legal grounds, and, in Article 125, on those who fail to deliver suspects to the proper judicial authority with 12 hours for crimes punished by light penalties, 18 hours for crimes punishable by correctional penalties and 36 hours for crimes punishable by afflictive or capital penalties.

<sup>137</sup> A suspect arrested without a warrant requesting a Preliminary Investigation must sign a waiver, in the presence of counsel, waiving his rights under Penal Code Article 125 to be brought before a judicial authority within 36 hours. By signing the waiver the detainees agrees to remain in custody of the police pending the conclusion, within a maximum of 15 days, of the requested Preliminary Investigation.

In theory, the Inquest provides an opportunity for the prosecutor, in the presence of the detainee's lawyer, to determine the lawfulness of the arrest, whether counsel had been present during interrogation, what the physical condition of the arrested person is and whether any torture and ill-treatment may have been used to coerce any admission or confession.

However it is not always clear that the Inquest prosecutors (fiscals) have the requisite independence to act as a proper judicial authority, and the proceeding consist of a cursory assessment of evidence on paper and become a semi-automatic mechanism for the filing of charges. Amnesty International is concerned that the Inquest therefore can fail to uphold the right to have a judge or other officer "exercise judicial power" where a detained person is brought before him or her, as set out in Article 9(3) of the ICCPR<sup>138</sup> and other international standards.<sup>139</sup>

In addition, there is a widespread assumption among police and prosecutors that, following the Inquest, the physical filing of an information with a Clerk of Court within 36 hours of arrest does indeed represent the fulfilment of detainee's right to be brought promptly before a 'judicial authority'. However the organisation is concerned that, in addition to the failure by fiscals to exercise a proper judicial role during the inquest itself, the actual filing of the information at the court is not an occasion for the exercise of genuine judicial oversight – but little more than the lodging of paper documentation.

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<sup>138</sup> ICCPR Article 9(3): "Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release".

<sup>139</sup> Principle 11 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by General Assembly resolution 43/173 of 9 December 1988: "A person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority..." Principle 37: "A person detained on a criminal charge shall be brought before a judicial or other authority provided by law promptly after his arrest. Such authority shall decide without delay upon the lawfulness and necessity of detention... A detained person shall, when brought before such an authority, have the right to make a statement on the treatment received by him while in custody".

### ***Appendix 3: Additional case studies***

#### **1. Eden Marcellana and Eddie Gumanoy**

Eden Marcellana, aged 31 years old and the mother of two children, and Eddie Gumanoy, aged 37 years old, were abducted by unidentified armed men in the evening on 21 April 2003 in Barangay Maibon, Naujan, Mindoro Oriental. They were travelling in a van with nine fellow members of a *Karapatan* human rights “quick-reaction” fact-finding team to investigate reports of a pattern of political killings and abductions in the province when about twenty armed men most wearing “bonnet” face masks, wearing combat fatigue jackets and ammunition pouches, blocked the road with their jeepney.

At least five of the masked assailants took over the van drove it to a nearby village followed by the jeepney carrying the other gunmen. The assailants then man-handled, struck and verbally abused the human rights workers demanding that Eden Marcellana identify herself. Eden Marcellana, Eddie Gumanoy and three other members of the team were then taken away on the jeepney. All the possessions of the fact-finding team, including documents and photographs collected on their mission, were taken. The following day the bodies of Eden and Eddie were found in a bamboo grove near a highway. The three other abductees had been released in separate isolated locations.

Post-mortem examinations by the Philippine Commission on Human Rights found that they were “hog-tied” (hands and feet tied together) and bore signs of torture inflicted before they were killed. Eddie Gumanoy suffered gunshot wounds to his face and chest and Eden Marcellana had two stab marks in the face and upper back. Other sources reported that Eden Marcellana’s body was severely beaten, particularly on the face and neck.

Eden Marcellana was the Secretary General of *Karapatan*-Southern Tagalog region and Eddie Gumanoy was the Chairperson of *Kasama-TK*, a local peasants organization. In the months prior to the abduction Eden Marcellana had publicly expressed concern about the at least 27 reported political killings, abductions and harassment of leftists and alleged “communist sympathizers” in Mindoro Oriental allegedly carried out by a “vigilante” group linked to members of the 204<sup>th</sup> Infantry Brigade, which was under the command of Colonel Jovito Palparan. A criminal complaint was filed against Colonel Palparan in relation to one case, and it was reported that he had subsequently labelled Eden Marcellana as a “terrorist”. In the days before their abduction, the fact-finding team reported that they were under military surveillance and when outside the 204<sup>th</sup> Brigade headquarters had reportedly been told to enter and were photographed against their will.

The killings of Eden Marcellana and Eddie Gumanoy prompted extensive media coverage and President Arroyo called for the establishment of a special task force under the direction of the Undersecretary of Justice to conduct immediate investigations. The task force announced that there were “strong indications” that soldiers were involved in the abduction. Other investigations were undertaken by the local police, the National Bureau of Investigation (NBI) and the military. In addition the human rights committees of both the Senate and the House of Representatives agreed to hold hearings in May to examine the case, but were

unable to resolve matters. Colonel Palparan was temporarily transferred from his post to another province pending the outcome of investigations.

In June it was reported that witnesses to the abduction had identified one of at least four suspects, a Sergeant working as an intelligence officer with the 204<sup>th</sup> Infantry Brigade, from pictures shown to them by the Department of Justice and NBI. The Sergeant was arrested by the NBI in Manila on an unrelated criminal complaint but was later released on bail due to the absence of formal charges against him. Witnesses identified other suspects as former NPA members (“rebel returnees”) who were believed to be working with the army as operatives or “military assets”.

The Department of Justice preliminary investigation hearings in the complaints against the Sergeant were repeatedly postponed as he failed to present counter-affidavits to the witness statements. In October, accompanied by Colonel Palparan, he submitted an affidavit to the prosecutor stating that he had an alibi, supported by a witness, and that he was not in Mindoro Oriental at the time of the killings. In February 2004, prosecutors dismissed the complaints and did not file charges against the Sergeant. An appeal against their decision was filed and remains pending in 2006.

In July 2003 relatives and witnesses filed a complaint against Colonel Palparan with the Philippine Commission on Human Rights in relation to the case. The Commission conducted investigations, but in February 2004 the families and witnesses, stating that they had lost confidence in the effectiveness and powers of the Commission, refused further participation in its inquiries and withdrew their complaints.

In a subsequent resolution the Commission on Human Rights, while not able to reach definitive findings as to the identity of the killers and to recommend the filing of appropriate criminal charges, expressed grave concern that Colonel Palparan had failed to initiate investigations into the killings, especially as his unit and personnel under his command were alleged to be complicit in the killings, and that he had not strictly implemented AFP Rules of Engagement for Internal Security Operations, including requirements to respect human rights and maintain chain of command responsibility and control. The Commission also expressed concern that the Congressional Commission on Appointments had approved Colonel Palparan’s promotion to Brigadier General despite its withdrawal of a required certification that the officer in question has no human rights complaints pending or resolved against him.

The killing of Eden Marcellana and Eddie Gumanoy remained unresolved. In March 2006 relatives of Eddie Gumanoy lodged a complaint with the UN Human Rights Committee under the Optional Protocol of the ICCPR. Their complaint stated that even if formal domestic legal remedies may appear not to have been fully exhausted, prolonged delays and ineffective procedures meant that, in reality, their right to a remedy and to receive justice had been denied.

## 2. Jose “Pepe” Manegded

Jose “Pepe” Manegded, aged 37 years and married with two daughters, was killed at around 10:00 in the evening on 28 November, 2005. He was found dead near a waiting shed along the national highway at Barangay Apatot, San Esteban, Ilocos Sur, Luzon, where he had been preparing to catch a bus to Manila to meet his wife on her return from Hong Kong.

About 30 minutes earlier he taken a tricycle from a nearby resort hotel where he had participated as a speaker and trainer at a paralegal training seminar organized by the Ilocos Human Rights Alliance and *Karapatan*. As he waited near the highway for a bus, a van reportedly approached and an unidentified man alighted. After speaking on his cell phone, the man reportedly drew a pistol and, when Pepe Manegded began to flee, chased him and opened fire. The tricycle driver and sole known witness after seeing the man chase Pepe and, on hearing the shots, returned in fear to the resort to seek assistance to call the police. The autopsy report stated that Pepe Manegded was shot with a .45 semi-automatic pistol and suffered over 20 gunshot wounds.

A church worker and community activist, Pepe Manegded was a coordinator of the Rural Missionaries of the Philippines (Cordillera and Ilocos), a former coordinator of the Regional Ecumenical Council in the Cordilleras and an editorial staff member of ‘Writing on The Wall’- the official publication of the Northern Luzon Forum for Church and Society. Earlier in 2005, Pepe Manegded had also agreed to take over the duties of *Bayan Muna* coordinator in the Ilocos region following the killing by unidentified armed men of former *Bayan Muna* coordinator, Romeo “Romy” Sanchez, in March 2005 (see case study).

According to reports compiled by *Karapatan*, Pepe Manegded had received death threats on his cell phone prior to his killing. It was also reported that he was under surveillance and that the military had labelled him as an NPA supporter.

Initial investigations carried out by police in Ilocos Sur found that the victim’s body was found about 15 meters from the waiting area, and collected various items from the crime scene, including a shell cases and a cloth case for a rifle. The initial police report concluded that the killing stemmed from the victim’s “personal activities and transactions”, but recommended the establishment of a task force to conduct further investigations. Amid concerns at the thoroughness of the investigation, colleagues from the participants from the paralegal training recalled that they had found the victim’s remains approximately 40 meters from the waiting shed, in a grassy area below a dirt road, and that it appeared as of someone had attempted to hide the body.

In February 2006, the Asian Human Rights Commission reported that in response to its expressions of concern about the case, the Office of the Ombudsman for the Military and Other Law Enforcement Offices has started investigations into Pepe Manegded’s case and three others. In addition the Secretary of Justice informed the AHRC that he instructed the National Bureau of Investigation to commence an investigation. However, there are no reports of any suspects being arrested or charged, and the case is believed to remain unresolved.

## 3. Romeo “Romy” Sanchez

Romeo “Romy” Sanchez, aged 39 years, married with five children, was attacked and killed at around 5:00 in the afternoon on 9 March 2005 in the centre of Baguio City, Luzon. He had been walking down one of the city’s main streets with two companions and stopped at the public market to look at second-hand clothes when he was shot in the head at close range. His companions, on hearing a bang, looked round to see Romy Sanchez slumped on the ground. They stayed at the scene in a state of shock until the police arrived.

Romy Sanchez, Ilocos regional coordinator of *Bayan Muna* and regional secretary-general of *Bagong Alyansang Makabayan* (BAYAN – New Patriotic Alliance), was a well-known local radio presenter and commentator and a community activist working on behalf on peasant and fisher folk in the Ilocos region. In 2000 he had been detained in Rizal province and reportedly subjected to torture by military intelligence officers who accused of involvement in the killing of a former senior CPP-NPA leader Conrado Balweg in 1999.<sup>140</sup>

Reports collated by the Cordillera Human Rights Alliance describe how two police officers, who were on foot patrol, arrived at the crime scene after only five minutes. A subsequent police scene-of-crime operation was able to recover one fired cartridge for a .380 calibre firearm on the floor on a nearby pawnshop. An autopsy report stated that the victim was shot with a .380 calibre handgun at close range below his left ear.

Romy Sanchez’ wife described her husband had received threatening text messages prior to his death including one warning that he should “prepare to be the next to die”. He reportedly told colleagues that he had been under military surveillance on numerous occasions since his detention in 2000 and that soldiers had threatened to harm him if he did not stop his leftist activities.

Initial investigations by the Baguio police centred on a witness who claimed to have seen the perpetrator talking to the victim. This witness, who refused give his identify for fear of retaliation, gave a description of the alleged assailant for a police cartographic sketch. At this stage police cited possible motives for the attack as factional rivalries within *Bayan Muna*; rivalries between the “rejectionist” and “reaffirmist” factions on the CPP-NPA; retribution for the victim’s alleged involvement in the killing of Conrado Balweg; or a personal grudge caused by financial misconduct by the victim. A text message to a local radio station reportedly from a NPA breakaway faction,<sup>141</sup> which had signed a truce with the government in 2000 and whose members at times allegedly acted as military “assets”, claimed responsibility for the killing. Other sources claimed that military intelligence personnel were involved.

Subsequently another witness came forward and voluntarily signed a written statement stating that he saw a man he knew at the crime scene shortly before the shooting. Although no one reportedly saw the attack itself, this witness claimed he saw this man

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<sup>140</sup> Conrado Balweg was former priest who joined the CPP-NPA and founded the Cordillera People’s Liberation Army. After a split within communist movement in the early 1990s Conrado Balweg was reportedly sentenced to death as an act of “revolutionary justice”. He was killed in 1999 and the NPA later claimed responsibility.

<sup>141</sup> The Revolutionary Proletarian Army-Alex Boncayao Brigade (RPA-ABB).

hurriedly walking away from the market afterwards with two companions, and insert a gun into his jacket. The witness stated that he met this man by chance the next day and on inquiring about the shooting incident was warned by him to keep silent.

The police, having filed the investigation report with the city prosecutor, considered the case as “solved”. Charges were later filed against the man identified by the witness, but the suspect is reported not to have been arrested. In June 2006 Task Force Usig restated that the case was believed to have been a result of rivalries between “rejectionist” and “reaffirmist” factions of the CPP-NPA. No information about any charges or legal proceedings is unknown to Amnesty International and the case remains unresolved.

#### **4. Audie Lucero**

Audie Lucero, aged 19 years old, was found dead in a rice field in Barangay Capitangan, Abucay, Bataan, Luzon on 13 February, 2006. According to an autopsy report he was killed by three gunshot wounds to his back, knee and left hand, and his body showed signs of ill-treatment.

Audie Lucero was an active member of the local youth chapter of *Kilusan para sa Pambansang Demokrasya* (KPD - Movement for National Democracy) in Samal, Bataan. The previous year, in February 2005, he participated in a meeting with local officials and military and police commanders in Samal in which representatives of various sectoral groups voiced their opposition to plans to station a detachment of soldiers from the 24<sup>th</sup> Infantry Battalion in the area.

According to reports collated by a fact-finding mission to the region conducted by Task Force Detainees of the Philippines and other human rights groups, Audie Lucero had been particularly vocal in this meeting and reportedly prompted a heated response from the police commander, who suggested that the youth group was linked to the armed insurgency and stated, “We know what the Youth for National Democracy is. We know who is backing you. We know all of you”.

Following the meeting the military detachment was established in the area, conducting regular night patrols and other duties. Another dialogue between local sectoral groups and the police took place in September 2005, in which Audie Lucero was again considered to be the spokesperson of the youth group and, as such, was known to take a prominent role in organising periodic peaceful protest activities.

On 12 February 2006, Audie and two companions brought a wounded friend to the hospital in Balanga City. As Audie and one other companion waited outside the hospital at around 5.00 pm for relatives of the patient to arrive, a police patrol encountered them and began to ask them about the patient. It is reported that the police suspected that the patient was an insurgent, who may have been wounded in a clash with the military. At around 7.00 pm Audie was left alone with the police officers, believed to be from the Balanga and Lubao police stations, after his companion was asked by a nurse to collect blood supplies for the patient.

The patient’s wife arrived at the hospital at around 8.00 pm. She and other witnesses described seeing a military truck and at least ten soldiers at the hospital, believed to be from

the 24<sup>th</sup> Infantry Brigade. One soldier questioned the wife about her husband and asked, after pointing him out, whether she knew Audie. The wife described Audie, accompanied by soldiers, as looking frightened and apparently crying. She told the soldier that she knew nothing about him, beyond that he had helped her husband to come to the hospital. The wife reported that police and soldiers were no longer in the hospital when she left to collect blood supplies at around 11.00 pm.

Audie Lucero was found dead the next day in a field about six kilometres from the hospital. According to local human rights groups, no information about the progress of police investigations has been made public and the case remains unresolved.

**Appendix 4: Reported political killings in 2006 (January to June)**

No.	Name	Affiliation	Date of incident
1	Armando Leabres	<i>Bayan Muna</i>	10/01/06
2	Ysrael Bernos	Town mayor	13/01/06
3	Ofelia "Nanay Perla" Rodriguez	Peasant rights leader	16/01/06
4	Antonio Alde	<i>Bayan Muna</i>	16/01/06
5	Rolly Canete	Radio journalist and legislative spokesperson	20/01/06
6	Graciano Aquino	Newspaper journalist	21/01/06
7	Mateo Morales	Activist working with indigenous communities	24/01/06
8	Roberto de la Cruz	Union board member	25/01/06
9	Audie Lucero	Youth activist with KPD	13/02/06
10	Melanio Evangelista	Leader in peasant organization	17/02/06
11	Jensen Cristobal	<i>Bayan Muna</i> and local government officer	18/02/06
12	Napoleon Pornadoro	Former Secretary General of <i>Karapatan-Quezon</i> and <i>Anakpawis-Quezon</i>	27/02/06
13	Luis Anthony Biel III	City mayor	03/03/06
14	Arturo Caloza	<i>Bayan Muna</i>	04/03/06
15	Nestor Arinque	Leader in peasant organization	07/03/06
16	Santiago Teodoro	<i>BAYAN</i>	10/03/06
17	Tirso Cruz	Union leader of farmers	17/03/06
18	Cris Hugo	League of Filipino Students	19/03/06
19	Agnes Abelon	Wife of Amante Abelon, coordinator <i>Anakpawis</i>	20/03/06
20	Amante Abelon Jr.	Son of Agnes Abelon and Amante Abelon Sr.	20/03/06
21	Vicente Denila	Agrarian reform advocate	27/03/06
22	Liezelda Estorba-Cunado	Gabriela Women's Party	03/04/06
23	Florencio Perez Cervantes	Peasant, local village council member	05/04/06
24	Elpidio de la Victoria	Director of an environmental commission	12/04/06
25	Rico Adeva	Community organiser of peasant and agrarian reform group, Task Force Mapalad	15/04/06
26	Marilou Rubio-Sanchez	<i>Bayan Muna</i>	22/04/06
27	Virgilio Rubio	<i>Bayan Muna</i>	22/04/06
28	'Tatay' Porferio Maglasang	Local chairperson of peasant organisation	22/04/06
29	Porferio Maglasang Sr.	Local chairperson of peasant organization	22/04/06
30	Enrico Cabanit	Activist for agrarian reform	24/04/06
31	Jesus Talaboc	Farmer	08/05/06
32	Rev. Jemias Tinambacan	United Church of Christ in the Philippines; Promotion of Church Peoples' Response and <i>Bayan Muna</i> .	09/05/06
33	Elena "Baby" Mendiola	Local Secretary General of <i>Bayan Muna</i> .	10/05/06
34	Ric Balauag	<i>Bayan Muna</i> .	10/05/06

35	Manuel Nardo	<i>Bayan Muna</i>	
36	Pedro Angcon	<i>Anakbayan</i>	16/05/06
37	Jose Doton	United Church of Christ in the Philippines	16/05/06
38	Mario Domingo	Local leader of peasant and agrarian reform group, Task Force Mapalad	17/05/06
39	Annaliza Abandaor-Gandia	Activist with <i>Kaisa Ka</i> , a women's group of KPD	18/05/06
40	Rev. Andy Pawican	United Church of Christ in the Philippines	21/05/06
41	Noel 'Noli' Capulong	United Church of Christ in the Philippines	27/05/06
42	David Costuna	Activist for agrarian rights	04/06/06
43	Arcadio Macale	A friend of Costuna	04/06/06
44	Rafael Markus Bangit	Cordillera Peoples Alliance and provincial leader of <i>Bayan Muna</i>	08/06/06
45	Tito Marata	Activist with a peasant organization and Rural Missionaries of the Philippines	17/06/06
46	George Vigo	Development worker and journalist.	19/06/06
47	Maricel 'Macel' Vigo	Development worker and journalist.	19/06/06
48	Eladio 'Jazz' Dasi	<i>Karapatan</i> and <i>Bayan Muna</i>	20/06/06
49	Wilfredo Cornea	Local leader of peasant and agrarian reform group, Task Force Mapalad	26/06/06
50	Delfinito Albano	City mayor	27/06/06