

THE PHILIPPINES

'Licenced' to Torture, Kill & to Silence the Oppressed

Introduction

In last year's human rights report, we took note of the strengthening of the normative legal framework on the protection of rights and the efforts by victims and their families of these violations by testing the efficacy of these remedies. We have raised concern on their effectiveness due to many reasons, notably the deeply flawed justice institutions. We also took note of the emerging confidence, real or imagined, in obtaining remedies from violations of these rights by the victims and their families.

Our report for 2013 will reflect on the state of the country's human rights by examining whether remedies for violations of rights, including torture, extrajudicial execution, enforced disappearance and so on, have been obtained and are consistent with the strengthening of the legal framework. We will examine the emerging trends and reasons why there were remedies in some cases, and none at all in others. We will comment on the social and political reasons for this. Furthermore, we will provide updates on the ongoing negotiations for political solution to the Mindanao question.

In our previous reports, we provided details and explanations on the reasons for the absence of remedy, but this report will try to articulate, after examining the cases it has documented this year and in the past, the reasons why, despite the severity and intensity of violations of fundamental rights, they continue to happen. For the most part these cases not to obtain adequate remedy due to the country's thriving social and political structure. It should not come as a surprise, regardless of the nature and severity of violations, that they are ignored because the country's institutions of justice operate to protect certain parties and persons and not the individual citizen.

In writing this report, another incident drew the attention of the international community: the renewed fighting in southern and central Mindanao, in response to the ongoing peace negotiations between the government and largest rebel group, the Moro Islamic Liberation Front (MILF). There is a section on this commenting on the implications of these events on the protection of rights.

***De Facto* Licence to Kill, Torture, Fabricate Charges & Disappear Persons**

License to kill

Cases of targeted extrajudicial killings, torture and disappearances were still evident this year. While there was a reduction in the frequency of deaths this was not an indication that the condition has improved. The targeting of human rights and political activists who are deeply engaged in assisting victims or seeking remedies on violations of fundamental rights continue unabated. The reason why these attacks continue and why victims are not going to get a remedy is due to de facto license by the police, soldiers and the public officials to commit criminal acts and human rights abuses without repercussion.

The strengthening of a legal framework fails to displace, if not restructure, flaws in the process of investigation, prosecution and the adjudication of cases. The effect of how the prosecution and the judiciary operate is not to hold perpetrators accountable for their crimes, but rather provide justifications to legitimize their acts. Legally murder and torture are crimes, but victims of these crimes have consistently failed to obtain adequate remedy due to the subversion of legal process. The institution that should prosecute and adjudicate these crimes allows the perpetrators to get away with them.

One example is the prosecutor's decision not to take action against the soldiers who killed Juvy Capion and her two boys, in Tampakan, South Cotabato in October 2012. Capion was a member of an organization of the Blaan tribe who was opposed to the entry of Xstrata-Sagittarius Mines, Inc. (SMI). In our last year's report¹, we noted that it is "likely that there will be no redress for new cases of massacre." Juvy and her two sons were inside their house preparing for her children to go to school when the soldiers open fired at them. The prosecutor's decision was in contradiction to the conclusive findings of the Commission on Human Rights (CHR) who concluded, after conducting its investigation, that the soldiers breached the 'rules of engagement',² and that they were liable for the deaths.

The outcome in Capion's case was not surprising. In fact, there had been many cases of murder and extrajudicial killings where victims have not obtained remedy at all, even when the case reaches court and is tried for many years. The reasons for this are the soldiers and the police claim, as their defense, that these deaths were the result of a 'legitimate encounter,' it implies that victims had been killed in an armed encounter. The prosecutors and judges rely heavily on their arguments as against the evidence presented to them in court. The prosecutors and judges, in effect, abdicate their role of investigating whether the victims were armed and fired at the soldiers, whether or not they are rebels. They merely rely on what the soldiers and police say.

This explains the case in the killing of Bacar Japalali and his wife, Carmen. After nine years of trial, in October this year the court acquitted the soldiers from charges despite compelling testimonial and forensic evidence that they killed Bacar and his pregnant wife,

¹ AHRC: The State of Human Rights in 2012: "Philippines: Strong rights, No remedy," p. 9-10, can be accessed at: <http://www.humanrights.asia/resources/hrreport/2012/ahrc-spr-009-2012.pdf>

² Mindanews, "CHR to sue military for killing of tribal leader's wife, 2 sons in Tampakan," 17 February 2013, can be accessed at: <http://www.mindanews.com/environment/2013/02/17/chr-to-sue-military-for-killing-of-tribal-leaders-wife-2-sons-in-tampakan/>

Carmen, while they were sleeping in their home in Tagum City, Mindanao in September 2004.³ This was despite the soldiers' admission that they opened fire at the couple's house. The court's reasoning was based on conjectures to create doubt effectively allowing soldiers to get away with it. It held the soldiers could not have shot at the victims unprovoked because they were veteran soldiers. The testimonies of expert witnesses that the victims proved negative for gunpowder burns; and eyewitnesses, that the couple was asleep and unarmed; were ignored. The husband's body was still inside a mosquito net when he was found.

While prosecutors and judges justify the criminal acts of soldiers and police when they are the accused; in incidents of 'legitimate encounters' where those killed are the police, soldiers and those who work for them, anyone can be charged, arrested and detained, issued with arrest orders, prosecuted, and tried. This happens regardless of whether there is convincing evidence that could illustrate that there was 'probable cause' that the accused could have perpetrated the crime or there was 'cause of action' to prosecute.

In cases of 'legitimate encounters,' often it is the word of the victims and witnesses who survived the attack as against the accounts of the military or the police. We have already demonstrated that the prosecutors and the judges tend to rely heavily on the police and the military's version of the account of the incident. The police and the military are presumed to be acting according to law; thus, unless the victims or the witnesses could show proof that the accused acted otherwise, they have leverage in the judicial process. It is assumed that the difficulties in proving convincing evidence of the police or soldier's intent to kill was said to be due to the absence of documentation, such as video recording.

In practice, where there are strong evidence, including video recordings, of the police and the military's act of killing or torture, the prosecutors do not acting promptly. Take the case of 17-year-old Arnel Leonor,⁴ a boy who was killed during a violent demolition by the police of houses in April 23, 2012 in Paranaque City. It took over a year for the National Bureau of Investigation (NBI) to complete its investigation into the boy's death, and even after completing its investigation the victim's families were not given copies of it despite their repeated requests from the NBI. The victim's mother, Glenda, has yet to know the reason of her son's death and the wounding of other villagers.

This is despite clear evidence, as shown in this video,⁵ of the use of excessive and disproportionate force against the informal settlers in the Silverio Compound in Paranaque City, Metro Manila, who opposed the demolition. What happened to Arnel Leonor and his fellow villagers is no different to other informal settlers who have been killed and wounded after they were violently attacked by the dispersing demolition teams. It happened to John Khali Lagrimas,⁶ a 14-year-old boy, who was killed when a demolition team fired live

³ AHRC Forwarded Statement, "TFDP assails judge for the military's acquittal in couple's slay" 14 November 2013 can be accessed at: <http://www.humanrights.asia/news/forwarded-news/AHRC-FPR-050-2013>

⁴ AHRC Open Letter, "Release investigation report of boy's killing during demolition to his mother," 21 February 2013, can be accessed at: <http://www.humanrights.asia/news/ahrc-news/AHRC-OLT-006-2013>

⁵ Tudla Productions, "Silverio Demolition: Rapid fire. Almost 30 gun shots rang in a minute," 24 April 2012, can be accessed at: <http://www.youtube.com/watch?v=hU7ZOeiKj-I>

⁶ AHRC Urgent Appeals, "Killing of a 14-year-old boy due to live ammunition used during forced evictions in Tarlac City," 12 October 2012, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/AHRC->

ammunition at him in San Roque village, Tarlac City in October 12, 2012; and to three persons,⁷ including a 7-year-old boy, who were killed when the policemen opened fired at the informal settlers who resisted demolition in Pasay City in November 23, 2009.

To our knowledge, none of the policemen and government officials involved in Arnel Leonor's death and the wounding of villagers has been charged since the incident happened. Despite the deep concern that we have expressed on this, our appeals were not acted upon. It is evident that even when there is clear and convincing evidence of the police act of killing, there is no guarantee that the prosecution of cases would be prompt. This delay is clear due to the deliberate act of depriving the victims and complainants access to information and the lack of transparency in investigation.

License to fabricate cases

These cases include human rights and political activists, who have been routinely, systematically and in a widespread scale, charged for ambushes despite their strong testimonial and documentary evidence and defense of alibis to show they were not physically present at the crime scene. Some accused are too weak, sick and ill, to carry out such attacks; and some have not even been to the place where the crime occurred in their entire life. But nevertheless they were included in the charges.

In Luzon, this includes the murder charges laid on Roy Velez, of the Kilusang Mayo Uno (KMU), and Amelita Gamara, of Defend Job Philippines, and other activists who were charged for supposedly attacking a military camp in Barangay Maot, Labo, Camarines Norte that killed four soldiers on April 29, 2012.⁸ In addition to this case, Roy and Amelita, and other activists, namely Randy Vargas, Raul Camposano and Rene Abiva, were also charged with murder for supposedly attacking a convoy of soldiers in an attack on April 25, 2012 that killed ten soldiers and a civilian in Barangay Gumbang, Tinoc, and Ifugao.⁹

In these two cases, the inclusion of the names of the accused in the charge sheet was based on testimonial evidence by persons who claimed to be former rebels, and is under the supervision and control of the military as intelligence assets. Legally, prosecution of a person for criminal offenses must satisfy the test of probability; however, in these two cases, the prosecutors and judged relied heavily on testimonies of the military assets in resolving that there was a case for the accused to answer in court and in their issuance of arrest orders respectively. Neither were the witnesses present at the crime scene nor the soldiers who survived from the fighting had personal knowledge the victim committed the crime.

[UAC-181-2012](#)

⁷ AHRC Urgent Appeals, "Three people die, including a 7-year-old boy, when policemen illegally demolish shanties of informal settlers," 23 November 2009, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-159-2009>

⁸ AHRC Urgent Appeals, "Two urban poor leaders and 30 others falsely charged with murder," 19 December 2012, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAU-036-2012/>

⁹ AHRC Urgent Appeals, "Arrest order on activists laid with fabricated charges of murder cancelled," 27 August 2013, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAU-025-2013>

The prosecution of human rights and political activists in the murder cases in Labo, Camarines Norte on April 29, 2012 and Tinoc, Ifugao, on April 25, 2012, therefore were based on assumption that, since the witnesses were former rebels, thus they must have personal knowledge of other rebels who perpetrated the attacks and the accused named in the charges, whom they claimed are the same persons. However, in this particular case the place where the murder happened could not possibly have been perpetrated by the accused as it was too far from each other's place of residence. Also, Amelita Gamara, one of the accused, was too weak and ill to travel from one place to another.

In the Visayas, Zara Alvarez, a licensed school teacher and staff member of the Northern Negros Alliance of Human Rights Advocates (NNAHRA), and Anecita Rojo, a church worker, were prosecuted on false charges of robbery in band¹⁰ together with 31 other human rights and political activists in Sagay City, on July 16, 2011; and for murder,¹¹ for the death of a soldier in an armed encounter in Cadiz City, Negros Occidental on in March 7, 2010. Zara is the co-accused of Ronald Ian Evidente,¹² a trade union organizer and spokesperson of Kilusang Mayo Uno (KMU), in the robbery in band case. He pleaded not guilty.

In Mindanao, the fabricated murder charges on Temogen "Cocoy" Tulawie, an indigenous human rights activist from Sulu, has not been withdrawn by the prosecutors despite compelling evidence that the evidence used by the prosecution on him are taken by way of forced confessions.¹³ Temogen is charged for multiple frustrated murders and multiple attempted murders¹⁴ for allegedly 'masterminding' and 'plotting' to assassinate Abdusakur Tan, present governor of Sulu, in a bomb attack in Patikul, Sulu on May 13, 2009.

This kind of practice by the soldiers and the police to keep witnesses, usually self-proclaimed former rebels and terrorists, in their custody ready to testify on any crime to support the military's version in criminal cases against persons they had pre-conception of arresting, detaining and prosecuting in courts, is done routinely, systematically and on a widespread scale. We have observed, not only this year, but also in our previous reporting that this kind of pattern is systemic targeting human rights and political activists.

For example, in 2010, there is the case of eleven human rights and political activists who were prosecuted on fabricated charges.¹⁵ The prosecutors used the testimony of a witness who

¹⁰ AHRC Urgent Appeals, "Falsely charged labour leader submits himself to trial to clear his name and those of others," 29 August 2012, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-152-2012>

¹¹ AHRC Urgent Appeals, "Another two falsely charged activists to be arraigned for robbery tomorrow," 27 May 2013, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAU-017-2013>

¹² AHRC Urgent Appeals, "Falsely charged labour leader submits himself to trial to clear his name and those of others," 29 August 2012, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-152-2012>

¹³ AHRC Urgent Appeals, "False murder charges on activist must be dropped," 26 January 2013, <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAU-002-2012>

¹⁴ AHRC Statement, "Temogen Tulawie case - prosecutors uses forced confessions as evidence," 16 January 2012, can be accessed at: <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-011-2012>

¹⁵ AHRC, "Philippines: The State of Human Rights in 2010," 10 December 2010, p. 3-4, can be accessed at:

was under the custody of the soldiers. He claimed the accused had supposedly launched an attack on an army camp that killed a military officer, a civilian and wounded four other soldiers in Pili, Camarines Sur, in May 25, 2006.

In 2009 we reported the case of labour lawyer Remegio Saladero and 19 other human rights and political activists¹⁶ were falsely charged with arson and conspiracy to commit rebellion for allegedly burning a cell site in Lemery, Batangas on August 2, 2008; and for murders and multiple attempted murders in an ambush of policemen on March 3, 2006 in Puerto Galera, Oriental Mindoro. They were exonerated after spending months in jail.

In effect the police and the prosecutors have violated these victims' fundamental rights and freedom from arbitrary arrest, detention, fair trial, to be heard and to confront the witnesses against her or him in court, and so on. Under the law, witnesses for criminal trial must be under the custody of the Witness Protection Program (WPP), under the oversight and supervision of the Department of Justice (DoJ). The reason for this is to ensure that witnesses are not only safe and protected, but also to keep the credibility and integrity of the testimony they are giving in court. But when it comes to the military their witnesses are kept in their custody, neither the prosecutors nor the court judges question their credibility and their testimonies in trial.

In cases involving the government's counter insurgency and terrorism campaign, the use of questionable and false witnesses by the police and soldiers is a commonplace. There are supposed to be adequate legal safeguards vested upon the authority of the prosecutors in filing criminal offenders in court. Ideally, the police ought to conduct effective investigations to collect evidence to be used by prosecutors. In weighing the evidence the police provided, the public prosecutors are supposed to examine thoroughly whether there is a 'probable cause' that could justify prosecuting the accused.

License to torture

The abdication by the police and the prosecutors from their obligation to observe this legal safeguard has resulted in either commission of or increase risk of torture. These are one of the manifold reasons why police, military and other agents of the states torture suspects and get away with violating the Anti-Torture Act of 2009. The prosecutor has become similar to the police motivated by showing to the public that a person or groups of persons have been arrested, detained and charged for crimes, regardless of whether the evidence they had on hand for the prosecution had established the probability that a crime has been committed and the of the accused are ascertained.

Ideally, the police and the prosecution system should operate not only to protect the interest of the State, but they should also ensure that in exercising this authority the fundamental rights and freedoms of the accused are not violated. However, in numerous cases, the existing Anti-Torture Act has neither prevented nor restrained the police and the military from repeatedly committing acts of torture in investigating cases.

<http://www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-008-2010.pdf>

¹⁶ AHRC, "Philippines: The State of Human Rights in 2009," 10 December 2009, p. 12-13, can be accessed at: <http://www.humanrights.asia/resources/hrreport/2009/AHRC-SPR-007-2009-Philippines-HRReport2009.pdf>

In Mindanao Saldy Sultan Pangsayan, a street vendor, of Katoli, Sultan Kudarat was arrested on September 8. The police tortured, detained and laid fabricated charges on him after he returned a mobile phone to its owner, which he and his wife, Saguera, found in General Santos City. Saldy was to return a mobile phone to the owner, who promised to give him money as a reward, but connived with the police in fabricating charges against him that he stole the mobile phone and that he was extorting money from her.

Apart from Saldy, there have been numerous documented cases of torture committed by the policemen in General Santos City. In fact, Saldy was arrested, tortured and detained by policemen attached to the same police station who tortured Anuar Hasim, 30, a tricycle (rickshaw) driver, in April 2010; and Misuari Kamid, a utility man of Malapatan, Sarangani Province, was also tortured by policemen in the same city in April 2010,¹⁷ after the Anti-Torture Law took effect, and many other torture victims even before the law was enacted. Like the torture of Hamsa Pedro, market labourer, whom police abducted 18 June 2005; and Alex Salipada, an Imam, who was abducted on 20 June 2005.¹⁸ None of these cases have resulted in the punishment of the torturers for their crimes.

However, while the torturers avoid punishment, the torture victims have to endure many years of trial to prove their innocence, and even after they are cleared from the fabricated charges, like in the case of Jehhon Macalinsal,¹⁹ have been unable to obtain any sort of remedy. Jehhon is one of the three men who were falsely charged in bombing a mall in April 2004. It is clear that for nearly a decade now the policemen in this city have been repeatedly torturing suspects with impunity.

Unlike Jehhon, in Luzon other former torture victims, like Aristedes Sarmiento,²⁰ a victim who still suffers from the torture he experienced in April 2006 have been rearrested on July 16, 2013. Aristedes, a peasant activist, is one of the five victims collectively known as the Tagaytay Five, who had been cleared of charges two years after they were arrested. Aristedes's was arrested on this time occasion on allegations that he and a person named "Alias Ka Nikki/Ka Liling," one of the persons responsible in the murder of Police Officer 3 Diosdado Corilla on January 30, 2011 in Atimonan, Quezon, is one and the same person.

In Aristedes's case, the evidence put forward by the Prosecutor for including Aristedes and four others in the case are sworn statements by witnesses, who claimed to be former rebels but are also under the custody of the military. They claimed to know all of the accused. But nothing in their testimony supports the fact that they had personal knowledge of the crime Aristedes was alleged to have committed or were in any way present when the accused allegedly committed the crime.

¹⁷ Article 2, Special Report: Torture in the Philippines & the unfulfilled promise of the 1987 Constitution, Vol. 10 - No. 01 March 2011, "Eleven recent cases of torture in the Philippines," can be accessed at: <http://www.article2.org/mainfile.php/1001/390/>

¹⁸ AHRC Urgent Appeals, "Trial of two men tortured and falsely charged seven years ago drags on," 8 October 2012, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-178-2012>

¹⁹ Danilo Reyes, "The narrative of a torture victim: a quest to clear one's name eleven years on," 24 October 2013, can be accessed at: <http://www.humanrights.asia/news/ahrc-news/AHRC-ART-120-2013>

²⁰ AHRC Statement, "Torture victim rearrested: unchecked prosecutorial power leads to fabrication of charges," 4 September 2013, can be accessed at: <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-164-2013>

The arrest of Aristedes, however, is more of showing to the public that the police and the prosecutors have been able to arrest and prosecute those responsible for murdering a policeman than the pursuit of the real suspects. The motivation to arrest Aristedes this time is likely similar to the reason why the police arrested him and four of other human rights and political activists for rebellion in April 2006. Like, Aristedes his co-accused, Riel Custodio, Axel Pinpin, Enrico Ybanez, Michael Mesias,²¹ were tortured in custody of the navy and police officers. Axel²² and Riel²³ narrated their experiences in an interview. All of them were acquitted from the fabricated charges of rebellion.

Not only Aristedes, but even ordinary persons like Rolly Panesa,²⁴ a security guard, who had no involvement whatsoever in any political activities at all, have been arrested, tortured and detained in October 2012. He was to stand trial under the name of a person, Benjamin Mendoza, who is not him; however, in August this year, the court held Rolly is not Benjamin, and granted his petition for habeas corpus ordering his release from detention. The military appealed the court's decision questioning its jurisdiction to hear Rolly's petition for habeas corpus. The military's challenge over the decision, however, evolved beyond whether or not Rolly is Benjamin, but what is at stake for the military.

Based on a report by Karapatan, a local human rights group, Gen. Emmanuel Bautista, the chief of staff of the Armed Forces, handed over 5.6 million peso reward²⁵ to one of his own military assets who identified Rolly as Benjamin. For the military not concede to the court's decision is not surprising. If they do, they would have to recall the reward they gave, the recognition to their soldiers and police for the arrest of a supposed top communist, and most importantly, no one could be charged for criminal offenses the rebels are alleged to have committed. Thus, it explains why Rolly must be Benjamin. It is for this reason too, that the police and soldiers tortured Rolly to force him into admitting he is Benjamin.

In Mindanao, arresting, torturing and prosecuting persons in the place of the real accused is common place. Mohjeennar Dagam Cabalo,²⁶ was an ailing man whom the police have illegally arrested and detained as a substitute for a man wanted for bombing in March 5, 2013 in Zamboanga City. The witnesses produced by the soldiers neither had personal knowledge of the bomb blast nor he had seen the victim for identification. The charged the victim because the witness, after looking at the photograph of Mohjeennar the police had secretly taken,

²¹ AHRC Urgent Appeals, "Five missing persons are allegedly being detained in the army camp in Lipa City," 30 April 2006, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/UA-143-2006/>

²² AHRC Press Release, "Torture survivor recalls his dark experience in a video interview," 24 June 2009, can be accessed at: <http://www.humanrights.asia/news/press-releases/AHRC-PRL-028-2009>

²³ Torture victims speak out--"I cannot easily trust the police and military anymore" -- Interview 3, 31 March 2011, can be accessed at: <http://www.humanrights.asia/opinions/interviews/AHRC-ETC-018-2011>

²⁴Karapatan Human Rights Update, "Military abducted and tortured security guard and family in Quezon City, Philippines; claimed they were "CPP officials" (UA No: 2012-10-04), 18 October 2012

²⁵ Karapatan Human Rights Update, "Anomalous "wanted with rewards" scheme of the AFP," 19 August 2013

²⁶ AHRC Urgent Appeals, "Police justify arrest and detention of an ailing man as a substitute for a wanted man because they 'look the same'," 3 June 2013, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAU-018-2013>

Mohjeennar and "Aman Kabalu" 'look the same.' Mohjeennar's family has produced documentary evidence to prove he is not "Aman Kabalu", one of the suspects in the October 5, 2007 bombing in Kidapawan City, but the prosecutors ignored them.

Mohjeennar was not the only person the police and military arrested, detained and falsely charged based on a testimony of witnesses by the soldier, who claimed that the victim and the real suspect are one because they 'look the same' by merely looking at the photographs of the police 'rogues gallery.'

The 'rogues gallery' contains collections of photographs of alleged terrorists, recidivist criminals, and wanted persons, ready to be presented to any victims, complainants and witnesses coming to the police station for identification. In practice, the gallery is not a only collection of faces of alleged criminals but they are often used as evidence by the police to arrest, torture, detain and file criminal charges--from petty theft to serious criminal acts--on any suspects they can get their hands on. They only need a witness who could testify that a person they arrested and the real accused 'look the same'.

This is exactly what has happened to Andaman Mokiding Binago.²⁷ When Andaman was first arrested in November 1, 2010 by the National Bureau of Investigation (NBI) in Davao City, they first accused him for snatching a mobile phone and included his photographs in the 'rogues gallery'; however, after his photograph was shown to one of the witnesses in a bomb blast at a lottery stall in January 2007 in General Santos City, even though his person and real name is different from the real accused they had him prosecuted for murder in connection to the bomb blast that killed six people and wounding 20 others. Now, Andaman is no longer a petty theft, but a 'high profile terrorist'.

The case of Andaman and Mohjeennar were not the only, and they will likely not the last, persons whom the police would be arrested, tortured, detained and falsely charged for supposedly perpetrating murders, 'terrorist' activities, and so on. There have been numerous accused, most of them are poor, whom the police and military arrested who are forced to endure the tedious prosecution and trials in court to clear their names. This pattern has continued unabated in recent years.

Similar cases were reported in our previous reports: in 2012, Ramon Dadulo,²⁸ a villager was prosecuted in place of the real accused, Nasser Malaguia, one of the accused in the 2009 Maguindanao massacre. In 2011, Abdul-Khan Balinting Ajid,²⁹ a villager was prosecuted because the soldiers insisted that he and the accused in the arrest order is the same person despite the fact that their names are different. They tortured him and set him on fire after his arrest in Sumisip, Basilan on July 23, 2011.

²⁷ AHRC Statement, "Negative impact of torture and delay in trial of accused in bomb blast," 8 November 2013, can be accessed at: <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-207-2013>

²⁸ AHRC: Philippines: The State of Human Rights in 2012, p. 4

²⁹ AHRC, State of Human Rights in 2011, "Philippines: In a flawed system of justice: The social & systemic implications are irreparable", 10 December 2011, p. 12, can be accessed at: <http://www.humanrights.asia/resources/hrreport/2011/AHRC-SPR-009-2011/>; for details of his case, see AHRC Urgent Appeals, "Soldiers torture a man and set him on fire," 8 September 2011, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-157-2011>

License to forcibly disappear

After 25 years of lobbying, in December 2012, President Benigno Aquino III signed into law the Anti-Enforced Disappearance Act of 2012, making Philippines the first country in Asia to criminalise enforced disappearance. However, neither prior to or after the enactment of this law have victims of enforced disappearances, their families and those who support them, obtained remedy, notably the 14 cases of disappearances documented in the last three years, based on the reports by Karapatan, a local human rights group.

A month after the law took effect, Sheikh Bashier Mursalum, a Muslim scholar and Muin Kahal Hamja,³⁰ whose brother was earlier briefly disappeared and located in police custody, were abducted from their home in Basilan in January. They were never seen again. None of those responsible for their disappearance have been prosecuted. And for families of disappeared victims Jonas Burgos, who disappeared in 2007; James Balao³¹ in 2008; Sherlyn Cadapan and Karen Empeno in 2006,³² who choose to seek legal remedies, their pursuit for remedy for the punishment of the perpetrators and to ascertain their whereabouts has been arduous.

With or without this specific law on enforced disappearance, police or soldiers who are responsible for disappearing victims have yet to be held to account. Notorious among them is the retired Major General Jovito Palparan, who was responsible for the disappearance of Sherlyn Cadapan and Karen Empeno. Palparan and his accomplices have yet to be arrested, detained and convicted for these crimes seven years on.

There are systemic reasons why Palparan will not be arrested anytime soon.³³ It is not due to the difficulty of locating him but because he still has connections and influence in the military. The inability of the government, despite their enormous resources in intelligence gathering; and the breadth of the security forces, scattered all over the country which monitor and arrest wanted persons, demonstrates that after decades of authoritarian rule the influence of the military establishment remains deeply embedded in the security apparatus. The emerging interference by the Armed Forces of the Philippines in the judicial processes³⁴ is proof of this.

³⁰ Karapatan Press Release, "Two cases of disappearance reported to human rights groups after enactment of Anti-Enforced Disappearance Law," 28 January 2013, can be accessed at:

<http://www.karapatan.org/Two+cases+of+disappearance+reported+to+human+rights+groups+after+enactment+of+Anti-Enforced+Disappearance+Law>

³¹ AHRC Urgent Appeals, "Human rights activist disappears; subject of overt surveillance," 8 October 2008, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-222-2008>

³² AHRC Urgent Appeals, "Two female student activists and a peasant forcibly abducted and disappeared; one of the victims is pregnant," 20 June 2006, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/UA-245-2006>

³³ AHRC Statement, "The importance of arresting retired general Jovito Palparan Jr.," 30 March 2012, can be accessed at: <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-075-2012>

³⁴ AHRC Statement, "Why does the court allow the military to interfere in the judicial process?," 6 November 2013, can be accessed at: <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-200-2013>

While Palparan cannot be arrested, the police or other non military persons who torture and forcibly disappear their victims, like Senior Inspector Joselito Binayug, a police officer in Manila City who was caught on video in August 2010, torturing Darius Evangelista, a suspected thief, was arrested.³⁵ Binayug and other policemen who were charged under the Anti-Torture Act of 2009 for the torture of Darius and his subsequent disappearance, have been arrested, detained and are now being tried in court. Therefore, while it is possible to arrest perpetrators who are policemen, for some reason there is difficulty in arresting and prosecuting soldiers who are charged with torture and disappearance.

This explains some of the reasons why the whereabouts of Benjamén Villeno,³⁶ a labour leader who disappeared in August 27, 2013, could not be easily ascertained even though he himself sent an SMS message to his colleague "he was being followed by persons he believed to be military men" somewhere in Cavite. Not only was his family and colleagues unable to locate his whereabouts, none of the government institutions, like the police, the Commission on Human Rights (CHR), amongst others, are known to have intervened or conducted their own investigation in line with the Anti-Enforced Disappearance Act. This also explains why local organisations, notably those engaged in human rights and political activities, do not take lightly reports of surveillance in their office and amongst their staff members when the culprits are alleged military or their intelligence officers.

This includes the case of Sr. Ma. Famita N. Somogod,³⁷ Sub-Regional Coordinator of the Rural Missionaries of the Philippines in Northern Mindanao (RMP-NMR), who was visited in September 30, by persons who falsely introduced themselves as staff of a funding agency; the threats on Rodel Bonghanoy,³⁸ a volunteer of the United Farmers of Davao del Sur (Nagkahiusang Mag-uuma sa Davao del Sur [NAMADDS]) by soldiers in Kiblawan, in Davao del Sur in September 1; the renewed surveillance by soldiers on Deborah Olarte,³⁹ a member of the United Church of Christ in the Philippines (UCCP) in Mabitac, Laguna in August 20; the surveillance by soldiers on Rodolfo "Ka Rudy" Sambajon,⁴⁰ Secretary General of Makabayan Coalition-Central Luzon, a local chapter of the Patriotic Coalition (Makabayan), in Orani, Bataan on August 2.

³⁵ Philippine Daily Inquirer, "Cop who was caught on camera torturing suspect falls," 15 April 2013, can be accessed at: <http://newsinfo.inquirer.net/391241/cop-who-was-caught-on-camera-torturing-suspect-falls>; see also AHRC Statement, "Policemen in torture videos: one in jail, another is free," 30 August 2013, can be accessed at: <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-160-2013>

³⁶AHRC Urgent Appeals, "Labour leader disappeared after he was followed by persons believed to be military personnel in Cavite," 9 October 2013, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-132-2013>

³⁷ AHRC Urgent Appeals, "Overt surveillance on a religious group assisting farmers in Mindanao," 4 November 2013, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-139-2013>

³⁸AHRC Urgent Appeals, "Another activist faces threats in Davao del Sur," 8 October 2013, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-129-2013>

³⁹ AHRC Urgent Appeals, "Renewed surveillance by military agents on a Pastor in Laguna," 7 October 2013, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-128-2013>

⁴⁰ AHRC Urgent Appeals, "Overt surveillance on a peasant leader in Bataan," 3 September 2013, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-115-2013>

Unabated Reprisals Against Journalists, Activists, & Indigenous People

Human rights defender and political activists are not taking lightly the threats, overt surveillance, and harassment they face. Indeed, it is clear evidence of targeted attacks and unabated reprisals against them. There is clearly a continuing systematic and widespread pattern of attacks targeting particular individuals, and social groups, regardless of whether they are Filipinos or foreigners within the country.

What is common among those targeted are: they are persons or groups who are seeking redress or assisting victims and their families for violation of their rights; those who expose violations of rights committed by police, military and other state agents; those who expose corrupt practices by the government and its officials; and those who challenge the *status quo* of the social and the political structure – like members of the political party opposing the policies of the government, persons or groups of persons with strong convictions in support of protecting national autonomy and identity from foreign influences.

Reprisals on journalists

The latest victim of a targeted attack of persons critical of the corrupt practices of the government and the local politicians was Joash Dignos, a radio commentator of “Bombardeyo” at DXGT Radyo Abante in Maramag, Bukidnon. Joash was shot dead by four attackers on November 29, in Valencia City, in Mindanao.⁴¹ His radio program is listened to because it was known for “exposing alleged irregularities by politicians.” Not only broadcast journalists in the community radio but even a well known broadcast journalist, Ces Orena-Drilon, of ABS-CBN, is being threatened⁴² for exposing corrupt practices by local officials. In her report, Ces “quoted a source as saying that (lawyer Arnel) Manoloto is being used by the Ampatuans as a “dummy” to hide their assets.”

The murder of Joash adds to the 157 journalists who had been killed in the line of duty since 1986, at least 18 of these were committed since President Benigno Aquino III came to office in 2010, in the record⁴³ of the National Union of Journalist in the Philippines (NUJP). The threat made on Ces Drilon cannot be taken lightly. Manoloto is the lawyer for the Ampatuans, a political clan who are accused in the killing of 58 people, including 32 journalists and media workers, in the Maguindanao massacre of 23 November 2009. The threats on Ces Drilon demonstrate that anyone who challenges the power and influence of the Ampatuans would suffer the consequence.

Also, the families of the journalists who were killed in the massacre, like Myrna Reblando, widow of Alejandro “Bong” Reblando, one of the journalists killed in the Maguindanao

⁴¹ Mindanews, “Broadcaster gunned down in Valencia City,” 30 November 2013, can be accessed at: <http://www.mindanews.com/top-stories/2013/11/30/broadcaster-gunned-down-in-valencia-city/>

⁴² ABS CBN, “NUJP condemns threats vs. Ces Drilon,” 25 July 2013, can be accessed at: <http://www.abs-cbnnews.com/nation/metro-manila/07/25/13/nujp-condemns-threats-vs-ces-drilon>

⁴³ Interaksyon, “NUJP blasts Coloma for saying media killings ‘not serious,’” 25 November 2013, can be accessed at: <http://www.interaksyon.com/article/75542/nujp-blasts-coloma-for-saying-media-killings-not-serious>

massacre, whose interest is only to seek redress for the death of her husband and other victims of the massacre, are targeted. She has had to endure a hard life⁴⁴ after she was forced to leave the Philippines due to absence of adequate protection. Myrna and other families of the victims have to endure threats, harassment, and overt surveillance, amongst other things, at the same time that they pursue remedies and redress for their loved ones.

Keeping in mind the case of Joash Dignos, Ces Drilon and Myrna Reblando, it is clear that regardless of who the person is—be they may be a community journalist, like Joash; a family member of the journalists who were killed, like Myrna; or a known person, like Ces—those who target them do not make any distinction when attacking them. This pattern demonstrates the extent and the depth of the absence of adequate protection to those exposing wrongdoings, and those who seek redress for the violations committed on their person. In the Philippines, to some extent, journalists and their families have had some sort of protection, given their level of connection with the known, powerful and influential persons in the government. The extent of reprisals and targeted attacks on journalists and their families demonstrates that no one has protection.

Reprisal on human rights activists

If adequate protection for journalists and their families is lacking, the situation of human rights and political activists is far more severe. Unlike journalists, activists not only expose and report on violation of rights, they also criticise the wrongdoing of the government and its institutions, demand from them to ensure remedies are afforded to victims and families, and that those who committed the violation are punished. The work of human rights and political activists is not only targeted at few individuals, but challenging the institutional power structure of the government.

From Mindanao there is the case of Cristina Morales Jose. Cristina Morales Jose was a leader of a group known as Barug Katawhan (Visayan dialect for People, Rise up!). She was shot dead in Bagangga, Davao Oriental, Mindanao, on March 4, 2013,⁴⁵ after questioning the government, notably the Department of Social Welfare and Development (DSWD) for allegedly “hording stacks of rice, that were supposedly distributed to the typhoon-stricken families” including her own village where she was also a councilmember. Cristina was assisting her fellow villagers to get relief goods and food from the government after her village was hit by super typhoon Pablo (international name Bopha). To suppress discontent in the village, soldiers attached to the 67th Infantry Battalion of the Philippine Army (IBPA), have been deployed who reportedly intimidated the residents there.

⁴⁴ Philippine Daily Inquirer, "Awaiting justice, massacre widow endures hard life in HK," 29 November 2013, can be accessed at: <http://globalnation.inquirer.net/92651/awaiting-justice-massacre-widow-endures-hard-life-in-hk#ixzz2mDv1zPct>

⁴⁵ Statement of the Kowloon Union Church, Hong Kong, "Justice for Cristina Morales Jose and all victims of extrajudicial killings and other human rights violations in the Philippines!" 17 March 2013; see also AHRC Urgent Appeals, "Renewed pattern of targeted attacks on human rights and political activists," 6 March 2013, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAG-001-2013/?searchterm=AHRC-UAG-%20%20001-2013>

In another case, transport activist Antonio "Dodong" Petalcorin, Sr.,⁴⁶ president of the Davao City-based group, Network of Transport Organizations (NETO), was shot dead in his home in Davao City after he and his group had exposed corruption in the Land Transportation Franchising Regulatory Board (LTFRB) and had called for the resignation of its director, Benjamin Go. Petalcorin's wife was at home when he was shot. She immediately called the emergency hotline; however, the emergency team, along with policemen, arrived after 15 minutes and by that time he had died of his wounds. In Luzon, in October 19, Elisa Tulid,⁴⁷ a land rights activist, was killed in front of her husband and daughter in San Andres, Quezon province. The victim and her family had been demanding the ownership of the land that they cultivate from their landlord. The gunman has been arrested and charged. However, the identities of his accomplices and those who ordered the killing of the victim and her family have yet to be ascertained by the police.

Also, after the cold-blooded murder the daughter of the victim continues to suffer severe trauma but, as of now has not received any form of counseling. The girl remains terrified and panics when hearing a firecracker, any loud noise and falling objects. She also suffers sleepless nights and awakens, crying and calling for her mother.

Not were these human rights activists killed, even those who obtained quasi-judicial orders which affirmed that their rights have been violated, and obtained orders for the enforcement of their rights, were subjected to reprisals. Typical is the case of the union leaders and workers of the Bleustar Manufacturing and Marketing Corporation (BMMC), a manufacturer of the branded footwear Advan, in Muntinlupa City. In August 2008, we issued an appeal about the illegal dismissal and sexual abuse of these factory workers.⁴⁸

After our appeal, the company signed an agreement on September 22, 2008 with the factory workers at the National Labor Relations Commission (NLRC), agreeing to reinstate all the workers they had illegally terminated and agreed to comply with all their workers' demands. After four years the company has not complied and abrogated from the agreement by imposing policies undermining the workers' employment security and protection.⁴⁹ The company imposed forced leave, delayed payment of the worker's salaries, and refused to recognize their union and to negotiate with them. The company is also not giving their social benefits on time.

What happened to the Bleustar workers is no different to the workers of Bacolod Columbia Marketing Inc. (BCMI), a retail company in Bacolod City. In October 20, 2012, we

⁴⁶ AHRC Urgent Appeals, "Transport leader murdered for exposing corruption in the government transport board," 5 August 2013, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-103-2013>

⁴⁷ AHRC Urgent Appeals, "A female land rights activist killed in front of her husband and daughter who remains traumatised," 15 November 2013, can be accessed at: <http://www.humanrights.asia/news/forwarded-news/AHRC-FUA-004-2013>

⁴⁸ AHRC Urgent Appeals, "Labour department's complicity in unlawful acts deprives sexually abused workers from creating a union," 1 August 2008, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-173-2008/>

⁴⁹ AHRC Urgent Appeals, "Reprisals on another illegally dismissed workers four years after their reinstatement to work," 5 April 2013, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAU-012-2013>

issued an appeal about the illegal dismissal of 26 workers and union leaders.⁵⁰ After the workers went on strike, Ms. Rosalinda Baldoz, secretary of the Department of Labor and Employment (DoLE), took over jurisdiction of the labour dispute. By November 9, 2012, Secretary Baldoz instructed the company to allow all the workers and locked out employees to return to work within 24 hours. The company did allow some of the workers to return to work; however, they also imposed numerous repressive policies and measures at the workplace targeting them making it difficult for them to work.⁵¹

Not only the workers, but also those who support, assist and advocate for the protection of workers' rights have been targeted. Early this year, we reported the renewed pattern⁵² involving ten cases of systematic, widespread and targeted attacks on the human rights and political activists, labour activists belonging to a particular group critical of the government, notably those affiliates of Karapatan.⁵³

On May 24, five of their colleagues: namely Jude Baggo, secretary general of the Cordillera Human Rights Alliance; William Bugatti, a paralegal of the Cordillera Human Rights Alliance, in Ifugao; Claudine Panayo and Fernando Alikes, of the Ifugao Resource and Development Center (IRDC) and Willy Kuan of the Regional Development Center - Katinnulong Daguiti Umili ti Amianan a Luzon (RDC-KADUAMI), were harassed, vilified and subject to overt surveillance by the soldiers in Cordillera region.⁵⁴

Reprisal on indigenous people

Persons or group of persons belonging to the vulnerable section of the society, notably the indigenous minorities, have also been targeted. The expansion of foreign owned and public owned corporations in its exploration in extracting mineral resources, the expansion of mono crop industries, and landlords taking a grip over its ownership of lands rich, either in mineral deposits or potential agricultural lands for mono crops, have also increased tensions in rural areas targeting indigenous groups.

The targeting of the indigenous people, like the murder of Gilbert Paborada,⁵⁵ of the Higaonon indigenous tribe, by two unknown men near his home in Puntod, Cagayan de Oro

⁵⁰ AHRC Urgent Appeals, "Twenty six workers and union leaders illegally dismissed in Negros," 20 October 2012, can be accessed at: <http://www.humanrights.asia/news/forwarded-news/AHRC-FUA-009-2012/>

⁵¹ AHRC Urgent Appeals, "Reprisals against illegally dismissed workers after they were reinstated," 20 March 2013, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAU-008-2013>

⁵² AHRC Urgent Appeals, "Renewed pattern of targeted attacks on human rights and political activists," 6 March 2013, can be accessed at: www.humanrights.asia/news/urgent-appeals/AHRC-UAG-001-2013

⁵³ "Karapatan condemns the series of arbitrary arrest and illegal detention of civilians, calls it a repeat of mistaken identity cases," 17 September 2013, can be accessed at: <http://www.karapatan.org/Karapatan+condemns+the+series+of+arbitrary+arrest+and+illegal+detention+of+civilians%2C+calls+it+a+repeat+of+mistaken+identity+cas>

⁵⁴ An email sent to the AHRC by Karapatan, "Threats vs. Rights Defenders, Development Workers in the Cordillera region, Philippines," 24 May 2013, unpublished.

⁵⁵ AHRC Urgent Appeals, "Another indigenous leader killed for opposing the incursion of a US-based palm oil company," 9 October 2012, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-179-2012>

City, for his and his groups opposition to the expansion of the oil palm plantation by a big US-based company, in Misamis Oriental, clearly demonstrates the continued systematic, targeted and widespread attacks on the indigenous groups. There are clear evidences that Gilbert's murder was not an isolated case, but rather part of a widespread pattern of abuse targeting indigenous people.

For example there is the case of Daniedo Cambo, Mylen and Loreto Cambo and two other villagers, Arnel Cambo and Reynaldo Libay.⁵⁶ They are indigenous villagers claiming ownership of the ancestral lands from their forefathers in Malalag, Davao del Sur. The Cambos and the Libays are indigenous people who belong to the *Taga-Kaulo* tribe, an indigenous tribe who cultivates and lives in the land now under control by others private firms. To suppress them, the police connived with the military to file false charges and accused them of being rebels. It was not until we intervened that the police dropped the charges.

A few months after we exposed the case of the Cambos, the police, military and the local intelligence renewed their threats, intimidation and harassment on the same allegations from which they had already been cleared. In September 1, Rodel Bonghanoy,⁵⁷ a volunteer of the United Farmers of Davao del Sur, was questioned, harassed and threatened by soldiers for conducting activities in support of the indigenous groups. In an interview with Loreto Cambo,⁵⁸ he described how and why, after a year, him and his fellow indigenous tribes, continue to endure harassment and threats by the soldiers, police and those who work for them in the village. In another incident, soldiers have harassed and prevented indigenous villagers,⁵⁹ who were displaced en masse due to an armed conflict, in Malawanit, Magsaysay, Davao del Sur, from getting access to their farms to harvest crops.

The reprisals and targeted attacks on indigenous people also happened in other parts of the country, such as the island of Luzon. This pattern includes killings, threats, harassment, fabrication of charges, and so on. In November, we reported that the Aeta Tribal people in the provinces of Zambales and Pampanga, who have been cultivating the 700 hectares of land they inherited from their ancestors, have been laid with fabricated charges, threatened and forcibly evicted from their ancestral land in Porac, Pampanga.⁶⁰ This case clearly illustrates that despite the National Commission for the Indigenous People (NCIP), a government agency mandated to protect the indigenous right to own land, declaring the victims indeed own the land they were not immune from targeted attacks.

⁵⁶ AHRC Urgent Appeals, "Indigenous activist accused of being a rebel is exonerated," 12 November 2012, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAU-034-2012>

⁵⁷ AHRC Urgent Appeals, "Another activist faces threats in Davao del Sur," 8 October 2013, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-129-2013>

⁵⁸ AHRC Article, "Tribute to Loreto Cambo, my Macli-ing Dulag of Davao del Sur," 22 October 2013, can be accessed at: <http://www.humanrights.asia/news/ahrc-news/AHRC-ART-119-2013>

⁵⁹ AHRC Urgent Appeals, "Soldiers prevent displaced indigenous villagers from access to their farms," 23 May 2013, can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-075-2013>

⁶⁰ AHRC Urgent Appeals, "Indigenous people falsely charged, threatened for planting crops on their ancestral land," 21 November 2013, can be accessed at: <http://www.humanrights.asia/news/forwarded-news/AHRC-FUA-005-2013>

Zamboanga Seige: Attacks on Civilians, Medical Personnel

In 2009, the Philippine Act on Crimes against International Humanitarian Law, Genocide, and Other Crimes against Humanity, a law that incorporates provisions of international law, was enacted. The law protects civilians, medical personnel and persons who are not taking part in the hostilities⁶¹ from being targeted during internal armed conflict. Domestically, the law cemented the legal framework in protecting and affording redress for civilians and those who are not taking part in the conflict with some legal remedies.

In Mindanao, the enactment of this law did produce expectations that the systematic targeting of civilians, if not justifying the attacks on them as 'collateral damage,' would be minimized if not actually prevented as it is a criminal offence. However, the efficacy of this law and the institutions responsible to enforce it has been tested during the renewed conflict in many parts in Mindanao this year.

One of these incidents was the renewed fighting between government forces and the Moro National Liberation Front (MNLF), under the faction of Nur Misuari, after the latter made siege of Zamboanga City for nine days in September 9, 2013. The fighting erupted after Misuari's forces had reportedly attempted to hoist a flag at the City Hall, seen as a gesture of declaring the Bangsamoro Republik. During the siege, 150 civilians were held hostage and used as human shields by the rebels; 90 people were killed⁶². Of those killed, 72 were rebels, eight were soldiers, three were policemen, and the remainder was civilians. Several others were also wounded, including five volunteers from the Philippines Red Cross.⁶³ The fighting displaced about 26,000 families who were forced to live in evacuation centers and with their relatives.⁶⁴

The fighting briefly spilled over to other parts of Mindanao where other rebels were sympathetic to the Misuari-led MNLF. According to reports received by the AHRC daily from the Mindanao Human Rights Action Centre (MinHRAC), fighting has also erupted in remote villages in the towns of Tuburan, Tipo- tipo and Lamitan, province of Basilan. Basilan is where the Misuari-led rebels have strong followers. Apart from Basilan, there was sporadic and scattered fighting also in Central Mindanao.

⁶¹ Section 4 (c) (1 to 4) of the Philippine Act on Crimes against International Humanitarian Law, Genocide, and Other Crimes against Humanity.

⁶² GMA News Online, "Death toll from Zamboanga crisis up to 90 - Armed Forces," 18 September 2013, can be accessed at: <http://www.gmanetwork.com/news/story/326915/news/regions/death-toll-from-zamboanga-crisis-up-to-90-armed-forces>

⁶³ Mindanews, "5 Red Cross volunteers, cop injured in Zambo standoff," 14 September 2013, can be accessed at: <http://www.mindanews.com/top-stories/2013/09/14/5-red-cross-volunteers-cop-injured-in-zambo-standoff/>; see also Philippine Star, "5 Red Cross personnel, 6 others hurt in Zambo grenade attack," 13 September 2013, can be accessed at: <http://www.philstar.com/nation/2013/09/13/1207001/5-red-cross-personnel-6-others-hurt-zambo-grenade-attack>

⁶⁴ MinHRAC's email to the AHRC, October 4, 2013, unpublished.

It has been widely reported that Misuari's faction of the MNLF refuses to honor the ongoing negotiations between the government and the Moro Islamic Liberation Front (MILF), another rebel group in Mindanao, that would create an improved autonomous region, the Bangsamoro Juridical Entity (BJE). The BJE would absorb the Autonomous Region in Muslim Mindanao (ARMM), the existing autonomous region which was a product of Misuari's peace agreement with the previous government.

The siege in Zamboanga city and the renewed fighting in other parts of Mindanao clearly shows the vulnerability of civilians and their communities, medical personnel, and others not taking part in the hostilities, from being targeted in attacks. The holding of about 150 civilians as hostages and using them as human shields, the injuring of Red Cross volunteers, killing of an elderly person whose house was hit by a mortar attack,⁶⁵ are clear evidence that despite the incorporation of the international norms on the protection of civilians in the domestic legal system in the conduct of war between conflict parties, the government's and the rebel's conduct of war in the country remains primitive.

Apart from the above there have been allegations also that rebels whom the soldiers and the police have captured have been tortured.

In the case of a 16-year-old boy⁶⁶ who was arrested together with other rebels; the boy claims that he took arms and joined the rebels after his father promised him he would be given cash if he joined a peaceful rally. However, the supposed peaceful rally that he attended ended up in the fierce battle. When the soldiers arrested the boy he was questioned in the absence of a legal counsel, deprived of food and forced to admit he was part of the rebel group by way of psychological torture. The soldiers used the ploy that they had allegedly killed one of his rebel companions, thereby forcing him and the other arrestees to admit they were rebels.

The most serious allegations against the soldiers was that they allegedly opened fire at the civilians while rebels were holding them hostage.⁶⁷ The government, however, have yet to publically release the results of its investigation. If this allegation is substantiated, this could be tantamount to violations of crimes against humanity.

Conclusion: Impunity is Deeply Systemic

In conclusion, after thoroughly examining and reviewing the state of human rights in the Philippines in 2013, we have concluded that there is adequate, strong and convincing evidence of a systematic and widespread practice where security forces and state agents

⁶⁵ Interaksyon, "Mortar round kills woman cooking for troops in Zambo," 21 September 2013, can be accessed at: <http://www.interaksyon.com/article/71180/day-13--mortar-round-kills-woman-cooking-for-troops-in-zambo>

⁶⁶ AHRC Urgent Appeals, "Torture of a 16-year-old boy caught in a fight between soldiers and rebels," 22 October 2013, can be accessed at: <http://www.humanrights.asia/news/forwarded-news/AHRC-FUA-003-2013>

⁶⁷ Philippine Star, "Video footage of soldiers firing at civilians mere propaganda'," 24 October 2013, can be accessed at: <http://www.philstar.com/headlines/2013/10/24/1248698/video-footage-soldiers-firing-civilians-mere-propaganda>

violate fundamental rights and freedom with impunity. When we say ‘impunity’ in this report, we do not mean the absence of punishment alone—but rather the acts of commission or omission by security forces and state agents within the system that condones violation of rights.

In this report, we distinguish ‘impunity,’ as it is commonly understood that means perpetrators cannot be punished or get away from their crimes; from ‘impunity,’ as discussed in this report this goes beyond the notion of the ‘absence of punishment’ or ‘the perpetrators getting away’ with punishment. Where impunity is systemic, the strengthening of the legal framework on the protection of rights—like the enactment of laws against torture, enforce disappearance and crimes against humanity, and so on—would become meaningless because the legal system from where victims seek redress has condoned, if not allowed it to happen.

In this report, it is clear that, invariably, perpetrators of torture, disappearance, and so on, have been charged and prosecuted in court. However, these types of cases are exceptions rather than the norm. For example, in torture cases, while low ranking policemen could be prosecuted, arrested and detained, none of the high-ranking policemen and military officers has been prosecuted for torture. Four years after the Anti-Torture Act was enforced, none of the perpetrators of torture have been convicted; and a year after the Anti-Enforced or Involuntary Disappearance Act, none of the whereabouts and the plight of victims whom police and soldiers allegedly made to disappear has been ascertained.

In fact, many of the soldiers who were allegedly involved in committing acts of torture, for example, Brig. Gen. Aurelio Baladad, formerly deputy chief for operations of the Armed Forces of the Philippines (AFP), who was implicated in illegally arresting, torturing and detaining the ‘Morong 43,’ have been promoted.⁶⁸ Baladad’s appointment succeeded amidst a protest by the victims and their families about his promotion. Also, Sergeant Jerry Napoles, the military commander and one of the accused in the murder of a couple in their home in Tagum City on September 2004,⁶⁹ would now be likely allowed to retire from the military service after having been acquitted by the court.

Not only the police, military and other state agents violate rights with impunity, they also systemically and on a widespread scale, target human rights defenders and political activists, for exposing their criminal acts, and for assisting the victims in seeking redress. The connivance between policemen and the prosecutors in, say using testimonies extracted by way of torture as evidence in courts; the use by prosecutors of fabricated evidence from the police in their criminal prosecutions; and the targeting by the police and the prosecutors of a particular persons or social groups, notably those critical of the government and its policies, in criminal prosecution, are clear evidence of systematic violations of rights.

Thus, the question would arise: can the victims and their families, whose absolute and fundamental rights like freedom from torture are violated, obtain remedies to the violations committed on them, and see their perpetrators punished, should they seek redress? As we demonstrated in this report, obviously there is no evidence or precedence that any violations

⁶⁸ Philippine Stat, "AFP official in 'Morong 43' case promoted Army division chief," 8 July 2013, can be accessed at: <http://www.philstar.com/headlines/2013/07/08/963090/afp-official-morong-43-case-promoted-army-division-chief>

⁶⁹ See note 3.



of rights, notably torture, have obtained adequate remedy. It is good that the legal and normative framework has developed in recent years; however, the prevailing impunity clearly shows that the system of justice that ought to protect rights, is either unable to protect fundamental rights or condones these violations.
