

## **Prison visits in the Philippines**

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The conditions of prisons in many Asian countries give rise to further abuse and human rights violations, including torture and ill treatment. While existing human rights standards provide for prisoners to have the same human rights as everyone else with certain limitations due to liberty restrictions, the reality is far different. Throughout Asia, prisoners are denied basic human rights, such as the right to adequate food, sanitation, health care. Prisoners also often suffer verbal and physical abuse.

The idea of visiting prisons and places of detention is to ensure that prisoners' basic rights are protected. Deprived of their liberties, prisoners are vulnerable to all forms of ill treatment. Moreover, respect of their fundamental rights and needs is exclusively dependent upon the authorities in charge. Regular visits can therefore improve the transparency within detention centres, which in turn will reduce the levels of abuse.

### **Prison visits in the Philippines**

Since 2006, the Asian Human Rights Commission (AHRC)'s Philippines desk has organized visits to victims of torture and other human rights violation whose cases had been issued as urgent appeals, at the different detention facilities within and outside Metro Manila. The purpose of these visits was not just to meet and check up on the victims, but also to update them about the progress of their case, such as informing them of the letters and responses received from the government and others on their case, any reports published using their cases, and so forth.

Sometimes their family members, friends and paralegals are taken along to visit them in prison, to discuss their case as well as to simply chat, which serves victims as informal trauma counselling.

During such visits, the AHRC staff have also come across detainees who asked for intervention in their case; for instance, their case hadn't been heard for many years in court. One such case was that of Iladio Laydan, a prisoner whom we met at the North Cotabato Provincial Jail in Kidapawan City, Mindanao in June 2010. Laydan was arrested and charged with rape and homicide on 23 September 2004. Only three years after his arrest, in July 2007 did the Regional Trial Court (RTC) 12 in Kidapawan City resolve that he had a case to answer. Laydan was arraigned on July 24, and when the Court commenced his trial on 27 September 2007, he appeared in court without a lawyer. The court appointed a private practitioner, lawyer Russel Abonado, to be his "counsel-de-officio to assist him in today's hearing only", but it turned out that his 'one-day' lawyer was representing him throughout the case.

On July 19, 2008, Rogelio Narisma, the RTC judge, ordered Abonado to be replaced because he seemed to be too "busy with his other official functions... [to] attend regularly to this case". A lawyer from the Public Attorney's Office, Joseph Jev Palomar, then took over the case upon the Court's request for a lawyer.

By June 2010 however, little progress had been made in his case. At this time, AHRC staff were conducting a regular visit of torture victims whom urgent appeals had been

issued for. The victims were asked about the progress of their case, whether any relatives or the Commission on Human Rights had visited them, when was their last hearing and next hearing, and so forth.

A few meters away, a man was observing them intently. According to AHRC staff,

After hearing all these questions, and realizing that those victims being spoken to had more regular visits by their non-relatives than any other prisoners, he was curious about what we were doing.

He came to sit next to me and started asking me questions. He moved slowly, physically weak, and his clothes were dishevelled as he was talking to me. After hearing questions about their scheduled hearings whether their lawyer had spoken to them, Laydan told me that his case was never scheduled for hearing, and that the public attorney representing him never bothers to tell him about his case.

In the Philippines, a person like Laydan, accused for rape and murder, regardless of whether he is innocent or guilty of the charge, would get little help from any NGOs or other groups. Sexual offence is a taboo for any NGOs or even human rights lawyers—justifying these types of cases are not in their mandate.

Moreover, Laydan is a member of an indigenous tribe, for which sexual offense is a taboo. Once a member of the tribe is accused or charged of such, they become outcast, and even their own families do not visit them in jail. When I spoke to Laydan, given the fact that he is a person who had no education and no idea about the laws and legal process, he said if he indeed committed the offence as charged he would not mind to be killed at anytime, but he is innocent.

In October 2010 the AHRC began writing to concerned authorities regarding Laydan's case, as well as initiating a discussion on the issue of legal aid in the country.

When another visit was conducted in July 2011, and inquiries were made as to what had happened in his case, Laydan said that to his surprise, a new lawyer had been appointed, who adequately briefed him about his case's progress before and after each hearing, and the hearings were taking place regularly as well.

While Laydan's case is still ongoing at the time of writing, the Public Attorney's Office in Kidapawan City has become more careful in the cases they are handling, which can also be seen in their responses to the AHRC's appeals and statements.

This case also brought up other issues for discussion and contemplation, such as the protection of minority rights as well as a person's basic rights to fair trial and due process. It demonstrates the importance of documentation and monitoring, as well as spotlighting how an individual case can speak to larger systemic issues.

### *'Talisay 3'*

On 1 February 2010, the AHRC reported the case of three peasant organizers Charity Diño, Billy Batrina and Sonny Rogelio, who were illegally arrested and detained by armed men in plainclothes on 23 November 2009 at 8am. At that time, the three organizers were in the municipality of Talisay, Batangas, inviting people in the community to participate in the Urban Poor week. While they were walking, three

vans blocked their way. Armed men alighted and forced the three into the vans. One of the vans had been seen roaming the village a day before the incident. The three victims were later known to have been taken to the 730th Combat Group of the Philippine Air Force Camp in Palico, Batangas.

At the military camp, they were tortured, subjected to questioning and held for 17 days. They were blindfolded with adhesive tape and handcuffed. Billy and Sonny had their heads hit against the wall, while Charity had her fingers squeezed hard with bullets inserted between them. Several military personnel interrogated them one after the other. Under torture, they were forced to admit to being members of a rebel group, the New People's Army (NPA). Several names were also mentioned and they were asked if they knew them.

The day after the incident, November 24, the three were taken to the Office of the Prosecutor in Batangas where they were subjected to inquest proceedings. On November 26, charges of illegal possession of firearms and explosives were filed against the three at the Regional Trial Court (RTC), Branch 6 in Tanauan, Batangas, and charges of illegal possession of drugs were also filed against Charity at the Municipal Trial Court (MTC) in Talisay, Batangas.

After they were charged in court, and 17 days after the military took custody of them, they were transferred to the Batangas Provincial Jail in Lipa City.

Under Rule 113, section 5 of the [Revised Rules on Criminal Procedure](#), only a person attempting to, in the act of committing or who has already committed a crime can be arrested without a warrant. In such situations, a person could be subjected to inquest proceedings on condition that the arresting officers and the prosecutor conducting the inquest are able to establish a 'probable cause' to proceed with prosecution. According to this, the manner of arrest and the subsequent filing of charges against Billy, Sonny and Charity was illegal: the three victims were abducted, they were not properly informed of the nature of charges against them, and evidence was allegedly planted on them to justify the filing of charges in court. They were also held in a military camp instead of the regular detention center required by law. Furthermore, the [Anti-Torture Act of 2009](#) declares the use of torture in criminal investigation a criminal offense. Under this law, evidence and testimonies obtained by way of torture cannot be used in court proceedings [See AHRC-UAC-005-2010].

In June 2010, AHRC staff visited the three victims at the Batangas jail, at which time they documented further details of their torture, which were not mentioned in the earlier appeal, and learned of the case status in court; when the last hearing was held, scheduled and discussions of their lawyers.

Although the victims were keener on pushing for their immediate release (because the charges against them were fabricated) than on pursuing a torture complaint, they nevertheless encouraged AHRC to pursue the complaints of torture with the CHR on their behalf. Despite the AHRC's communications with both the CHR and the Ombudsman, there was no investigation into the case, and it remains pending today.

During this visit, the three detainees also shared considerable information regarding the illegal activities occurring inside the prison, such as corruption, prostitution and

prison officials taking sexual advantage of the detainee's wives and girlfriends. Due to the fact that Billy, Sonny and Charity were perceived as 'political detainees', they were treated slightly better than the other prisoners, and they used their privilege in organizing other detainees to defend their rights and ensure basic conditions. The numerous visits they had by the AHRC as well as other NGOs gave them a certain level of protection, which they used to speak out and complain against prison officials on behalf of other detainees.

### **'Abadilla Five'**

In August 1999, five persons, Lenido Lumanog, Augusto Santos, Cesar Fortuna, Rameses de Jesus and Joel de Jesus, were sentenced to death by the Regional Trial Court (RTC) in Quezon City for the murder of an influential police colonel, Rolando Abadilla. Since then, the five are known as the 'Abadilla Five'. They were convicted on the testimony of a lone alleged witness, and detained in the New Bilibid Prisons, Muntinlupa City, Metro Manila.

The court's decision convicting them has since been repeatedly challenged by the accused and their legal counsels. However, the court denied the accused' motion to reconsider its decision and to conduct a new trial in order to allow them to present evidence that could prove their innocence. The evidence would also prove that it was a rebel group, the Alex Boncayao Brigade (ABB), who were responsible for Abadilla's murder. None of the Abadilla Five were ABB or had any links to the ABB. In February 2000, the case was transferred to the Supreme Court for mandatory review as required by the rules of criminal procedure involving death sentences. In January 2005, the Supreme Court transferred the case to the Court of Appeals for review, and finally in April 2008, the appellate court upheld the sentencing of the lower court. The accused petitioned the Supreme Court to review the decision in May 2008, and the Supreme Court upheld the guilty verdict on 7 September 2010. The five are now seeking presidential clemency.

The AHRC first took up the Abadilla Five case in June 2007, when their appeal questioning the lower court's decision convicting them for murder was pending at the Court of Appeals. The case had dragged on for many years, with the lawyers and NGOs assisting them facing many difficulties.

Staff from the AHRC first visited the Abadilla Five in prison at the beginning of 2008 with their former lawyer Soliman Santos. There was a renewed interest by the public into their torture complaint and the failure of the justice system, so at the time of the visit the detainees were given a morale boost. They felt that they were not ignored, and even after many years, their case was still being followed. During the visit, the AHRC was made aware of details regarding the pending court case, as well as their condition inside the jail, particularly of kidney transplant patient Lenido Lumanog. As a result, the AHRC requested for him to receive medical attention [see AHRC-UAU-014-2008, 28 March 2008] which the Bureau of Corrections (BuCor) of the Department of Justice (DoJ) later assured would be taken care of.

There were many other benefits from that (and subsequent) visit(s). As noted by AHRC staff,

That visit strengthened our relationship not only with the detainees' families, but also with the lawyers and other civil groups helping the detainees. In fact, to me it was one of the breakthroughs in terms of the AHRC's work regarding how to engage with detainees, legal counsels and groups.

The visit facilitated our connection with the detainees' families—wives, children and other relatives—whose interest and morale in working on the case was then renewed. The families began pushing the Ombudsman to resolve the torture case, for the Court of Appeals to resolve their appeal for conviction and for the Commission on Human Rights (CHR) to take upon themselves in pushing for the prosecution of the complaint of torture by the victim (it was the CHR who filed the complaint first).

We had dialogues with the CHR and a regular protest at the Office of the Ombudsman regarding their inability to resolve the case promptly. The combination of following up the legal aspects of the case as well as other forms of protest helped to motivate public interest.

At the time of writing, the victims are keen on seeking presidential clemency after the Supreme Court affirmed their conviction.

The AHRC was able to produce a tremendous amount of documentation on their case, including a publication of detailed interviews with the families of the victims in their pursuit of justice.

### **General prison conditions in the Philippines**

The Philippines does not have a centralized law or agency regarding the management of prisons, and thus it is difficult to assess prison conditions. Some prisons are managed by civilian authorities, while others by the police and military. There is a lack of accountability in the management.

**2.17 The lack of an effective register of detainees:** the prison system is poorly organised, with no central, well organised register of detainees, which feeds the problem of torture and impunity for this practice. The Bureau of Corrections (BuCor), which is under the Department of Justice (DoJ), is responsible for those “sentenced to serve a term of imprisonment of more than three (3) years.”<sup>1</sup> The Bureau of Jail Management and Penology (BJMP), which is under the Department of Interior and Local Government (DILG), is responsible for “persons detained awaiting investigation or trial and/or transfer to the national penitentiary.”<sup>2</sup> Further to detention facilities under the (DoJ), the BJMP or the Jail Bureau, “exercise supervision and control over all city and municipal jails” and the respective provincial governments where the provincial jails are located also exercise ‘supervision and control’ and operate autonomously from the DoJ. The operation of city jails, municipal jails and provincial jails, are directly under the supervision and control of the respective local governments. The operation of provincial jails depends solely on the availability of funds of the province. Should a particular province suffer from a lack of budget or resources, resulting in deteriorated detention conditions, the Department of Justice (DoJ) could not intervene as it lacks jurisdiction [ALRC, ‘The situation of torture in the Philippines’, alternative report to the Committee Against Torture, 2009; ALRC-TBR-001-2009].

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<sup>1</sup> Bureau of Corrections (BuCor) mandate and functions

<sup>2</sup> Section 63, Chapter V, Department of the Interior and Local Government Act of 1990 (RA 6975)

Other issues that have been spotlighted by documentation and prison visits:

### ***Sanitation and medical treatment***

Different prisons and detention centers in the country have had detainees die from tuberculosis, which is shocking; tuberculosis is no longer the dreaded affliction that killed millions in past decades. It has been for many years now an easily treatable disease and the fact that prisoners die of it whilst in custody speaks of the criminal neglect of the prison authorities. In December 2008 Melvic Lupe, a detainee held at the Karangalan Police Station, Cainta, Rizal died from tuberculosis, while the charges filed against him and his fellow workers was pending at the Regional Trial Court (RTC), Branch 80, in Morong, Rizal. The workers were detained on fabricated charges due to protesting against the illegal dismissal of their fellow workers and poor working conditions. There had been needless delays in the conclusion of the case due to the judge taking leave of absence and other factors. A year later, another worker, Leo Paro of Parang, Marikina City, also died of tuberculosis on 24 September 2009 after becoming ill due to poor prison conditions and lack of adequate medical attention. Paro and Lupe were physically fit and did not have these types of illnesses prior to their detention. Despite the death of one of the detainees over a year ago, the following death of Paro illustrates the authorities' continued failure to improve conditions and prevent similar deaths of the detainees who are under their custody and care.

The cell occupied by these detainees measured some four square meters. Initially more than 20 inmates were occupying the detention cell. All of the detainees had to take it in turns to sleep due to the overcrowding. The detainees' vulnerability to contracting illness inside the jail and the weakening of their bodies was also aggravated by the lack of adequate food and nutrition. Not only is the food scarce, there are occasions when the food ration is served late. And even if visitors bring food for the detainees, the guards would take some portions of the food before it reached them [See AHRC UAC-109-2009, 21 August 2009; UAU-207-2009, 29 September 2009; and AHRC-OLT-027-2009, 7 October 2009].

In May 2005, two inmates died of tuberculosis (TB) disease and heart disease in separate incidents inside the General Santos City Reformatory Center (GSCRC). There have been a number of inmates who contracted or acquired a number of diseases including tuberculosis, severe coughing and high blood pressure. Although the jail authorities are aware of the situation, their response has been poor.

The Department of Interior and Local Government released its findings and evaluation regarding the condition of prisons all over the country on November 2004, and reported the increasing number of inmates in prisons and penitentiaries contracting tuberculosis. Among the causes for the disease to spread are congested prison centers and lack of food. This, however, has not been adequately addressed. According to the Commission on Human Rights regarding its evaluation of prison conditions in the country report for 2005, Dr. Renante Basas, director of the Commission's assistance and visitorial office, concluded that the country's jails and detention centers, including the seven national penitentiaries, have remained below the standard.

### *Suspicious deaths*

Sometime in the first week of December 2005, an 18-year-old inmate, identified as Arthur Esquelona died on his way to the General Santos City Hospital. Esquelona was taken to the hospital by jail officers of the General Santos City Reformatory Center (GSCRC) after he complained of severe stomach pain. According to Supt. Amilbansa Aming, jail warden of the GSCRC, the victim may have died of an ulcer.

Esquelona had been detained at the GSCRC for awhile. After the victim's death, his parents, Rodrigo and Rosalinda raised suspicions over the incident. The couple claimed that their son was in good health prior to his detention and when they visited him in October 2005.

According to Rodrigo, his son was found to have a blood clot on his head, which he theorized may have caused his death. They are not convinced that their son died of an ulcer as reported by the jail officers. This prompted them to have their son subjected to an autopsy examination.

In the autopsy report released by Dr. Antonietta Odi, medico-legal officer at the City Integrated Health Services (CIHS), it was found the victim's body had traces of injuries on the head. Dr. Odi said the victim's head may have been beaten or thrown into a hard object, which may have caused his death. According to Odi's opinion, deaths of patients who are suffering from ulcers are completely different from Esquelona [See UA-242-2005, 21 December 2005].

Two more inmates died in the GSCRC custody later in December 2005, Vincent Abella and Mary Jane Mancera. Abella was found dead while in deep sleep, while Mancera died on her way to hospital on December 28 after she suddenly collapsed in the jail. These deaths were not thoroughly investigated, with the police merely recording whatever information is reported to them by the jail authorities, citing constraints of authority and jurisdiction [See UP-01-2006, 2 January 2006].

On 28 July 2005, the AHRC received information of a suspicious death of an inmate who had had serious threats on his life prior to his death. It is reported that on July 12, Joselito Tobi, an inmate who was falsely charged and detained at the provincial jail in Palo, Leyte following the 21 November 2005 vigil held by farmers regarding the distribution of land allegedly died from food poisoning.

Tobi also had criminal complaints pending against the military for the death of nine peasants in Palo, Leyte. Tobi and his fellow inmate, Arniel Dizon, reportedly had received threats two weeks before his death. The AHRC is not aware of any thorough investigation conducted into Tobi's death. Those responsible of allegedly poisoning Tobi, and threatening him and Dizon remain unknown [For details please see [UP-151-2006](#), 31 July 2006 and [UA-216-2005](#), 21 November 2005].

As the above cases indicate, prison conditions in the Philippines are far from ideal. They do not meet even national standards, let alone international ones. National standards can be found in the Bureau of Corrections Operating Manual, as well as statutory provisions regarding persons in custody, while international human rights

standards for prisoners are found in the Universal Declaration of Human Rights (UDHR), the United Nations Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules), Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles) and the Basic Principles for the Treatment of Prisoners (Basic Principles).

### **Making complaints**

In most cases, prisoners or detainees do not complain directly to the prison authorities. Although there are guidelines and rules in terms of complaint making, prisoners prefer to inform their relatives, who in turn make complaints to the prison authorities. As for those detainees who do not have relatives to complain to, they usually ask to be included in the complaints of fellow detainees.

Even though it is a third party—relatives or others—making complaints to the prison officials, there is still caution for the fact that they are directly complaining to the prison officials who have power and authority where the complaining detainees are held. Once the prison officials come to know of the complaint, the relevant prisoners are targeted, not physically, but in a variety of methods. They are not given sufficient food for instance, are subject to solitary confinement or isolated from other detainees, and are denied the privilege of roaming about the jail compound.

In the worst scenario, the detainees are prevented from going out of their overly congested cells, due to being considered a “security risk”; the act of complaining itself is interpreted as the detainees threatening the security of the entire detention facility. In this case, hardly any progress will be made regarding the complaints.

In detention centers where all prisoners are held together, whether pre-trial, ongoing trial or convicted, prisoners are themselves becoming *de facto* prison officers due to the lack of resources and inadequate number of prison officers. To obtain such a privilege, prisoners must impress upon the prison officials and guards that they are actually working for them, submitting to their authority without question.

Once a prisoner becomes a *de facto* prison guard, he/she will get the privilege of even holding keys to prison cells, registering visitors and working in the canteens that are funded and owned by the prison officials and guards, which is in fact illegal under the prison guidelines.

The Commission on Human Rights (CHR), the Public Attorney’s Office (PAO) and the Courts who have jurisdiction over particular detention facilities have the power and authority to conduct jail visits unannounced to ensure the detainees are well treated and the administration is running smoothly. Unfortunately, such visits are hardly ever conducted. The PAO also has the additional legal obligation to discuss with the detainees and inform them of the progress of their case. In practice however, the detainees are only informed by letter or when they are taken to court for their hearings. In other words, the detainees only have a chance to talk to their lawyer when they appear in court for trial.

There are many Civil Service Laws and other laws regarding complaints against prison officials in performance of their duties. They can be charged for administrative

or criminal offences once they are found to be committing violations in performance of their duties. Hardly any prisoners take this course however. As mentioned above, it is not practical to file a complaint against the prison officials who have authority and power over the detention facilities where one is held. There is hardly any protection afforded to complainants or witnesses to crimes in the Philippines, so what can prisoners expect?

As a result, prisoners tend to organize themselves collectively inside the detention centers for their own protection. Some join gangs, religious groups and many others who could help them in times of need. There are many fights and riots amongst prisoners themselves, with many dying. The more 'connections' these groups have with prison officials, the more immunity they have for any criminal activities, as well as more privileges and perks inside the detention facilities.

In some detention facilities, prisoners who could no longer bear the abuse and oppression by prison officials, such as corrupting the budget for their food, medical needs and others, may go on hunger strike. There is also anecdotal evidence whereby prisoners were released by prison guards to commit crimes outside, like theft and robberies, or wealthy prisoners were allowed to go outside the detention facilities for their personal errands. Once this was publicized, the prison officials would be sacked, if not moved to other facilities. Such a strategy is thus more effective than making use of the complaint procedure that exists on paper.

**[Footnote text for first page]** This article is a summary of the latest Human Rights Correspondence School Lesson Series 67: Prison visits in the Philippines. Please see the entire lesson at: <http://www.hrschool.org/modules/67.pdf>.