

Amnesty International Testimony

Extrajudicial Killings in the Philippines: Strategies to End the Violence

Before the

Committee on Foreign Relations

Subcommittee on East Asian & Pacific Affairs

United States Senate



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March 14, 2007

Thank you Madam Chair and distinguished members of this committee. Amnesty is pleased to testify at this important hearing.

For several years political killings in the Philippines have been of serious concern to Amnesty International which has issued reports, urgent actions and news releases to highlight the gravity of the situation. We also met with Her Excellency

Gloria Macapagal Arroyo, President of the Republic of the Philippines, on September 14, 2006 to raise these concerns.

It is disturbing to note that, even though hundreds have been killed so far, to date there has not been a single conviction. The political killings are continuing in the Philippines, and even yesterday a witness to the UN envoy was gunned down. Amnesty International is concerned that the Government's declaration of "all-out war" on communism paves the way for further increases in killings.

Summary

The number of attacks on leftist activists and community workers rose sharply during the last couple of years. Most of the attacks were carried out by unidentified assailants on motorcycles, at times wearing face masks, who were often described as "vigilantes" or hired killers allegedly linked to Armed Forces of the Philippines (AFP). In some cases, those attacked had reportedly been under surveillance by people linked to the security forces or had received death threats.

Those most at risk include members of legal leftist political parties, including Bayan Muna (People First) and Anakpawis (Toiling Masses), other human rights and community activists, priests, church workers, and lawyers regarded by the authorities as sympathetic to the broader communist movement.

Increased killings in particular provinces during President Arroyo's Administration were reportedly linked to the public labelling of leftist groups as National People's Army's "front organizations" by the local AFP Commanders.

A climate of impunity shielding the perpetrators of such killings deepened as ineffective investigations failed to lead to the prosecution of those responsible. In many cases witnesses were reportedly too frightened to testify.

Most of the victims were not even members of armed groups, even though they may have sympathised with their ideology. It is a matter of importance for everyone in the Philippines that individuals should be able to affiliate with the political party or group of their choice and not be subject to politically motivated violence as a result.

Who is responsible?

The methodology of the attacks, including prior death threats, patterns of surveillance by persons reportedly linked to the security forces, the leftist profile of the victims, and a climate of impunity that has shielded the perpetrators from prosecution, has led Amnesty International to conclude that the attacks are not an unconnected series of criminal murders but constitute a politically-motivated pattern of killings. The organization remains gravely concerned that members of the security forces may have been directly involved in the killings, or else have tolerated, acquiesced to, or been complicit in them.

Philip Alston, the UN expert on extrajudicial executions, stated in his initial findings that: "The Armed Forces of the Philippines remains in a state of almost total denial of its need to respond effectively and authentically to the significant number of killings which have been convincingly attributed to them."

Major General Jovito Palparan

One of the well known military officers whose name is often cited in the context of political killings is Major General Palparan. He has made public statements linking leftist political parties with National People's Army. In a television interview in August 2002, then Colonel Palparan labelled Bayan Muna an NPA front. He also publicly accused Karapatan and the women's organization, Gabriela, of being NPA recruiters.

Major General Palparan in particular emerged as the focus of accusations by leftist groups that the military was responsible for sharply increased numbers of killings of leftist activists in regions where he was given command.

He also described the Congressional party-list members as directing of "providing the day –to-day policies of the (rebel) movement."

He warned of necessary and tolerable "collateral damage" in the anti-insurgency campaign, and, referring to vigilante killings by anti-communist elements outside the AFP, stated that the military alone should not be blamed. Subsequently, labelling leftist party-list leader as "enemies of the state", he also called for reinstatement of the Anti-Subversion Act to make membership of the CPP a criminal offence once again.

An Asset?

Major General Palparan retired on 11 September 2005. Following his retirement he was lauded by the president who called him an asset to the counterinsurgency. This is despite all the accusations against him. He was going to be appointed as the Deputy National Security Advisor, but the appointment did not go through due to public protest. He has recently been encouraged to run for Congress.

He was significantly mentioned in the Melo report whose authors interviewed him in regards to comments he has made about political killings. He has also been implicated behind some of the killings.

Amnesty International is concerned that there may be several more senior officers like Major General Palparan in the Armed Forces of the Philippines. We urge the U.S. Administration to be vigilant in identifying these officers to satisfy Leahey Law requirements.

Philippines Government's response

After almost four years of rising numbers of political killings - and after intense pressure from the international human rights organizations and the United Nations – the Government of the Philippines took some steps to "understand" the problem, by appointing "Melo Commission." It is a mystery why the Government

of the Philippines failed to address this disturbing trend of political killings for all these years; despite the fact that hundreds were killed for political reasons.

On August 21, 2006 President Gloria Macapagal Arroyo announced the establishment of a special Commission of Inquiry, headed by former Supreme Court Justice Jose Melo, to investigate the killings and to make recommendations for remedial action, including appropriate prosecutions and legislative proposals.

Pledging to “break this cycle of violence once and for all,” President Arroyo stated, “I have directed [the Melo Commission] to leave no stone unturned in their pursuit of justice...the victims and their families deserve justice to be served.”

After initial hesitation to release the report; the Government of the Philippines released the “Melo Report” on February 22, 2007. Responding to the Melo Commission report, the Government has announced a six-point action plan, the implementation of which will be crucial to ending the killings. A lack of accountability for such political killings remains a critical challenge: to date there has not been one conviction, despite the hundreds of killings, primarily of legal leftist activists, over the past six years.

In May, the authorities set up a special police investigative task force called Usig to coordinate investigations into suspected political killings. However, only a limited number of people were arrested and few cases were filed in court by the end of 2006. For example, of 114 killings recorded since 2001 by Task Force Usig, the police have arrested suspects in only three cases. No one was held accountable for cases before 2001.

United States Policy

The United States has a special relationship with Philippines, including U.S. forces stationed in the Philippines to train the Armed Forces of the Philippines (AFP). The United States also offers millions of dollars of aid and other military assistance and has designated the Philippines as a major non-NATO ally.

Given this close relationship the United States enjoys with the Philippines it is disappointing to note that the Administration's actions have been muted and that the administration has failed the Philippine people by not publicly condemning the Philippine government publicly over the last four years while the political killings increased. Not being vocal on this issue sends a wrong message to the Government of the Philippines. We urge the Administration to publicly condemn the political killings and urge the creation of specific benchmarks for the Philippines Government to end these killings. We urge the Administration to keep this issue as a matter of priority in all of its interactions with the Government of the Philippines.

In September 2006, it was reported in the media that military assistance, in the form of training, would be increased to help with the Philippines' war on terror and to combat the communist insurgency. Since the political killings in the

Philippines are happening in the context of communist insurgency, it is vital that the United States Government report to the appropriate Congressional committees the type of military assistance it is giving to the Government of the Philippines in its fight against the community insurgency.

What should be done?

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

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

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

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

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

Political killings: an intensifying pattern

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

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

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

Communist "fronts": the resurgence of "red-labeling"

Human rights violations against suspected "sympathizers" of the CPP-NPA have long been a feature of anti-insurgency operations in the Philippines. From the 1970's to the early 1990's the practice of "red-labeling", the public labeling of leftist critics of the government as "subversives" or members of communist "front organizations", was seen by Amnesty International, Task Force Detainees of the Philippines and other human rights groups as directly linked to the high levels of extrajudicial executions, "disappearances", arbitrary arrests and torture of members of legal political groups and non-governmental organizations. Peasants, trade unionists, church, social and human rights activists were portrayed in this manner as "legitimate" targets within the broader counter-insurgency campaign. Many were also placed, without opportunity for rebuttal, on AFP "Orders of Battle" (lists of people wanted by the security forces for alleged

subversion) and, often receiving death threats from AFP and police personnel, paramilitaries or unofficial vigilante groups, were at particular risk of serious human rights violations.

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

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

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

Major General Palparan in particular emerged as the focus of accusations by leftist groups that the military was responsible for sharply increased numbers of killings of leftist activists in regions where he was given command, including Samar and, currently, Central Luzon. In February 2006, Major General Palparan publicly reiterated that the government must confront the insurgency at all levels, reducing their support systems, including NGO's infiltrated or controlled by the CPP that provide the "materials, the shelter" for the NPA. He also described the congressional party-list members as directing or "providing the day-to-day

policies of the [rebel] movement". He warned of necessary and tolerable "collateral damage" in the anti-insurgency campaign, and, referring to vigilante killings by anti-communist elements outside the AFP, stated that the military "alone" should not be blamed. Subsequently, labeling leftist party-list leaders as "enemies of the state", he also called for reinstatement of the Anti-Subversion Act to again make membership of the CPP a criminal offence.

Though reassured by President Arroyo's public condemnation of political killings in July 2006, the absence of consistent denunciation, at all levels of government, of any form of official involvement in political killings contributed to persistent concerns that such counter-insurgency strategies would consolidate, in practice, into an implicit policy of toleration of such political killings. Such concerns had deepened as senior government officials, including prominent members of the Cabinet Oversight Committee on Internal Security (COC-IS), publicly endorsed such counter-insurgency strategies, and in addition, robustly defended the arrest or threatened arrest of party-list Congressional representatives for rebellion. In March 2006 National Security Adviser Noberto Gonzales declared that the government was beginning a crackdown on all known "communist fronts" in society, and would achieve its goal of destroying the CPP-NPA by the year 2010.

The background of the victims and location of attacks

The majority of the victims of political killings have been unarmed civilians, members of the legal political left, primarily *Bayan Muna*, *Anakpawis* and *Bagong Alyansang Makabayan* (BAYAN - New Patriotic Alliance), but including activists from a range of leftist sectoral or community organizations. Those killed have also included members of leftist groups who have split from the CPP, including the *Kilusan para sa Pambansang Demokratsya* (KPD - Movement for National Democracy). Both men and women have been targeted, with the victims including community organizers, church workers and priests, human rights activists, trade union and peasant leaders, journalists, indigenous peoples activists, elected local officials and political activists.

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

Methodology of attacks and suspected perpetrators

The predominant method of attack has been shootings by unidentified assailants, mostly riding tandem on a motorcycle, who often obscure their identity with "bonnet" face masks or helmets. At times the assailants are supported by other

men on motorcycles nearby or use unmarked vans. Many attacks were described as having been carried out in a "professional" manner, with the killers striking in broad daylight in public places, firing a limited number of shots targeted at the head or trunk of the body of the targeted person, before escaping unimpeded.

According to reports, a significant number of attacks have been preceded by warnings or death threats, and by patterns of surveillance by alleged security force personnel which reportedly led up to targeted attacks in or near the victims homes or offices, or while they undertook routine journeys. Following the killing of at least three activists in northern Luzon 2005, leaders from the Cordillera Peoples Alliance (CPA) and *Bayan Muna-Cordillera*, reported that they had been informed by sources within the AFP that they had been included on a military list as targets for attack. They described subsequent intensive surveillance or "casing" operations conducted by suspected military intelligence personnel, including being followed, vehicles carrying men (at times covering their faces) stationed outside their office or driving repeatedly by, and apparent attempts to break-in to their offices or cars.

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

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

Ineffective investigations and a climate of impunity

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

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

climate of impunity undermines public confidence in the administration of justice, eroding the rule of law and respect for human rights.

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

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

Difficulty in investigating?

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

Families of the victims have repeatedly complained of protracted and inconclusive police investigations which are reported to be indefinitely "stalled"

due to an "absence of leads", or to have been "solved" if the investigating officers have filed an initial police investigation report with the prosecutor – which subsequently may not lead to the prosecutor filing charges and applying for a warrant of arrest. In conjunction with lack of confidence in the impartiality of the police, fear of reprisals and a lack of an effective witness protection program, most investigations remain ineffective and fail to lead to the identification, arrest, trial and conviction of the perpetrators.

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

Ineffective investigations, which fail to lead to prosecutions and convictions, have played a role in sustaining a broader climate of impunity that has been allowed to persist since the presidency of Ferdinand Marcos (1965-1986). The vast majority of soldiers, paramilitaries and police responsible for endemic human rights violations during the Marcos years have never been prosecuted and most of their victims have received neither justice nor redress. Although President Marcos' successor, President Corazon Aquino (1986-1992), promulgated a new Constitution, restored democratic institutions and instituted mechanisms for the protection of human rights, an entrenched public belief that a climate of impunity protected security forces personnel responsible for past and continuing patterns of grave human violations remained intact. President Aquino's administration, attempting to manage a political transition from the former martial law regime and facing direct challenges from repeated coup attempts by right-wing military rebels, considered it necessary to maintain the support of loyal military leaders. To this end there was no government pressure for systematic investigation and prosecution of security personnel accused of perpetrating human violations under martial law and in the context of past and renewed counter-insurgency operations.

Impunity

Amnesty International and other international and national human rights groups repeatedly expressed grave concern that the continuing paucity of prosecutions and convictions of state perpetrators of human rights violations, including extrajudicial executions, "disappearances" and torture, risked entrenching a *de facto* climate of impunity that emboldened security personnel to commit further violations in the context of anti-insurgency operations. A bleak picture of persistent failures in the administration of justice was highlighted by the fact that

of the 1,509 cases of alleged human rights violations filed by the Philippine Commission on Human Rights before the courts between 1987 and 1990, only 11 cases resulted in sanctions against the perpetrators.

Amnesty International is concerned that flaws within the administration of justice that have long underpinned a *de facto* climate of impunity - including ineffective investigations, reluctance of witnesses to come forward for fear of reprisals, and an apparent lack of political will to ensure the prosecution of suspects, continues to endure. These flaws were sharply illustrated by a pattern of killings of street children and other suspected criminals by unidentified "vigilantes" in Davao City (Mindanao) and Cebu City (Visayas) in recent years. In Davao City at least 390 "criminals", mostly alleged drugs pushers, solvent abusers or petty thieves, and including street children and youth gang members, have reportedly been shot dead in the city since 2001. The majority of attacks were carried by unidentified men on motorcycles, and local human rights groups expressed alarm at reports that local police were directly responsible, or else had colluded with private "vigilante" gangs in carrying out such killings in an effort to combat criminality and "clean up" the city's streets. These concerns intensified as the city's mayor appeared to condone the killings, while denying any direct official responsibility. Police investigations have failed to lead to the identification and arrest of those responsible and Amnesty International is not aware of a single prosecution that has led to the conviction of any of the perpetrators.

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

Failures to prosecute and convict security personnel suspected of carrying out or being complicit in grave human rights violations continues to fuel the perception that a climate of impunity is shielding such officers from being held to account. Prominent, well-publicized examples include the failure to bring suspects to trial in the case of the reported extrajudicial execution by police of 11 alleged members of the *Kuratong Baleleng* bank robbery gang in a Manila street in 1995, and the failure to hold anyone accountable for the alleged torture by police in 1996 of six men accused of the murder of Rolando Abadilla, a former Marcos-era police intelligence officer.

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

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

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

Witness Protection

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

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

Duty of the State

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

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

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

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

investigations and prosecutions in the Philippines. This is particularly urgent in relation to the continuing pattern of political killings.

Conclusions

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

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

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

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

Recommendations:

To the Government of the Philippines:

- 1) Not to treat this as a public relations problem; but to take serious steps to find out who was behind these systematic killings and to make public those findings.
- 2) Fully implement the Melo Commission recommendations.
- 3) Accept offer of assistance from the UN and other countries.
- 4) Allow international observers to monitor investigations and trials.
- 5) Ensure that the Administration speak with one voice on condemning these killings.
- 6) Ensure that the new anti-terror law is not used to commit human rights abuses.
- 7) Announce a comprehensive strategy to stop political killings and to bring those involved to justice.

8) Amnesty International's 14-Point Program for the Prevention of Extrajudicial Executions, based on the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, provides a framework within which the pattern of political killings can be stopped. The organization urges the Government of the Philippines to implement the Program in full.

Given reports of continuing political killings, Amnesty International has made a number of recommendations, addressed to the government, international organisations, civil society organisations and the armed groups. A summary of key recommendations include:

A. Reassert Respect for Human Rights

1) Official condemnation: Consistently and at every level of government condemn all political killings.

2) Chain of command control: Prohibit orders from superior officers or public authorities authorizing, inciting or tacitly encouraging other persons to carry out unlawful killings, even through silence or failing to take action to investigate, and ensure that those in command exercise appropriate and effective control over those within their command.

3) Action against "death squads" and vigilantes: Prohibit and disband any "death squads", private armies, vigilantes, criminal gangs and paramilitary forces operating outside the chain of command but with official support or acquiescence.

B. Guarantee the Administration of Justice

1) Investigation: Ensure that all complaints and reports of political killings are investigated promptly, impartially, independently, thoroughly and effectively. An independent and impartial body should exercise oversight to ensure investigations are conducted by the police and other investigative agencies in accordance with international standards.¹

2) Prosecution: Ensure that those responsible for political killings are brought to justice in accordance with international standards of fairness.

3) Protection against death threats and other intimidation: Take action to fully implement the Witness Protection, Security and Benefit Act (RA 6981) in order to ensure safe, reliable and durable mechanisms guaranteeing the participation in the legal process of witnesses to political killings.

C. The Peace Process: ensure compliance with the Human Rights Agreement

1) All sides of the armed conflict should recommit to and ensure compliance with the 1998 Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL).

2) Respect for human rights the ground should be enhanced by taking steps to ensure the operation of the Joint Monitoring Committee of the CARHRIHL.

D. Action by other human rights institutions.

National: The Deputy Ombudsman for the Military and Other Law Enforcement should conduct prompt, impartial and effective investigations of all reported political killings which should, as appropriate, lead promptly to recommendations to the Department of Justice to file criminal charges against those found responsible.

To The United States Government:

1) The Leahy Law must be vigorously implemented. The U.S. Embassy must be pro-active in identifying members of the Armed Forces of the Philippines, who may be involved in political killings.

2) The U.S. should give a strong and clear message to the Government of the Philippines that U.S. – Philippines relations will suffer if the current trend in political killings continues and if Philippine authorities fail to bring past abusers to justice.

3) Report to appropriate Congressional Committees about the reported assistance given to the Government of the Philippines in fighting communist insurgency.

4) Insist on specific bench marks from the Government of the Philippines to address political killings.

5) Offer technical and other assistance to help solve the cases.

Thank you for inviting Amnesty International to this important hearing.

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